

# PROGRAM OPPORTUNITY NOTICE

## MUNICIPAL FINANCING PROGRAM



PON # 400-09-401  
[www.energy.state.ca.gov/contracts](http://www.energy.state.ca.gov/contracts)  
State of California  
California Energy Commission  
~~October 2009~~ [November 2009](#)

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## Attachments

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4	Sample Standard Agreement <del>(To be provided in an addendum)</del>
5	Mandatory Notice of Intent to Bid
6	Executive Summary
7	National Environmental <del>Protection</del> <u>Policy</u> Act (NEPA) Compliance/ <u>Certification</u> Form
8	Davis Bacon Act Prevailing Wage Q&A <u>Form</u>
9	California <del>Law</del> Prevailing Wage <del>Requirements</del> <u>Q&amp;A Form</u>
10	Bidders Authorizing Resolution Sample
11	Auditing Consideration
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13	California Environmental Quality Act (CEQA) Compliance Form
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<del>16-17</del>	Exhibit A-1, Exhibit B and Exhibit F Budget Workbook Exhibit A-1, Schedule of Deliverables and Due Dates Exhibit A-1, Gantt Chart Exhibit B, Budget Forms Exhibit F, List of Contacts
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# I. Introduction

## BACKGROUND

The American Recovery and Reinvestment Act of 2009 (ARRA) was enacted by Congress to preserve and create jobs and promote economic recovery, to assist those most impacted by the recession, to provide investments needed to increase economic efficiency by spurring technological advances, and to make investments that will have long-term economic benefits. ARRA gives preference to projects that promote and enhance these objectives of the Act in an expeditious manner.

The U.S. Department of Energy (DOE) encourages states to develop State Energy Program (SEP) strategies that align with the following national goals: increasing jobs, reducing US oil dependency through increases in energy efficiency and deployment of renewable energy technologies, promoting economic vitality through an increase in “green jobs,” and reducing green house gas emissions. The DOE encourages states to focus their program efforts on market transformation initiatives and actions that align with these national goals. Market transformation is defined as: “Strategic interventions that cause lasting changes in the structure or function of a market or the behavior of market participants, resulting in an increase in adoption of energy efficiency and renewable energy products, services, and practices.”<sup>1</sup>

The DOE has allocated the Energy Commission \$226 million in ARRA funding for the SEP. State law authorizes the Energy Commission to use these SEP funds for energy efficiency, energy conservation, renewable energy, and other energy-related projects and activities authorized by ARRA. Because ARRA has a set of the unique policy demands and limitations regarding the life of the funds, the Energy Commission is seeking projects through a number of mechanisms and for a number of different programs. The Energy Commission reserves the unfettered right to decide which of all of the possible bidders and projects solicited will tend to maximize the beneficial use of the ARRA funds. Therefore bidders are admonished that there is no guarantee that their project will be funded even if their proposal is the highest ranked proposal under this PON.

Among other SEP funding opportunities, the Energy Commission has decided to seek projects in the following program areas under three concurrent solicitations:

1. Municipal Financing Program (~~“AB 811-type programs”~~) PON No. 400-09-401
2. California Comprehensive Residential Building Retrofit Program ~~PON~~ RFP No. 400-09-403
3. Municipal and Commercial Building Targeted Measure Retrofit Program ~~PON~~ RFP No. 400-09-402

Collectively, the three solicitations shall be referred to as the “Solicitations.” Individually, they are referred to as “solicitation”, “PON”, or “RFP”.

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<sup>1</sup> See [http://www.energy.ca.gov/recovery/documents/SEP\\_Recovery\\_Act\\_Guidance\\_DE-FOA-00000521.pdf](http://www.energy.ca.gov/recovery/documents/SEP_Recovery_Act_Guidance_DE-FOA-00000521.pdf)

## I. INTRODUCTION, CONTINUED

The Solicitations contain many new ARRA and SEP requirements. Bidders are advised to carefully read and review all sections of this PON as the proposal and the contracting requirements have changed significantly from past Energy Commission solicitations.

### PURPOSE OF THIS PON

This solicitation is solely for the Municipal Financing Program, one of the four program elements eligible for ARRA SEP funding under the Energy Commission's *State Energy Program Guidelines* adopted by the Energy Commission on September 30, 2009. SEP funds awarded through this PON will be directed to establishing and/or continuing city-, county-, or region-wide financing programs to implement energy retrofits in existing residential, commercial and industrial buildings. The specific goals, objectives and program strategies for this PON are described in Section II.

### KEY ACTIVITIES AND DATES

Key activities and times for PON are presented below. This is a tentative schedule; please call the Contracts Office to confirm dates.

ACTIVITY	ACTION DATE
PON Release	October 8, 2009
Pre-Bid Conference	October 20, 2009
Deadline for Written Questions	October 22, 2009
Distribute Questions/Answers and Addenda (if any) to PON	October 27, 2009
<b>Notice of Intent from bidders due by COB</b>	October 30, 2009
<b>Deadline to Submit Proposals by 5:00 p.m.</b>	<del>November 30</del> <u>December 21</u> , 2009
Clarification Interviews (If necessary)	TBD
Notice of Proposed Award	<del>December 22, 2009</del> <u>February 11, 2010</u>
Energy Commission Business Meeting	<del>January 27, 2009</del> <u>March 24, 2010</u>
Contract Start Date	<del>February</del> <u>March 29, 2010</u>
Project Implementation Deadline (By Law)	March 31, 2012
Contract End Date	March 31, 2012

### AVAILABLE FUNDING

There is up to \$95 million of ARRA SEP funds available for the contracts resulting from the solicitations: this PON, the RFP for the California Comprehensive Residential Building Retrofit Program, and the RFP for the Municipal and Commercial Building Targeted Measure Retrofit Program. To be considered for funding, each proposal shall request no more than \$20 million and no less than \$2 ~~M~~million from a solicitation. Requested funding should reflect the level of effort proposed. The Energy Commission anticipates funding one or more separate agreements as a result of this solicitation. An organization may submit a separate proposal for funding under any of the Solicitations, and may receive a separate award under more than one solicitation. The Energy Commission also reserves the right to: make no awards under any one or more

## I. INTRODUCTION, CONTINUED

solicitations; or to award all funds under one or more solicitations; or to award funds to one bidder.

The Energy Commission reserves the right to reduce the amount of funds available under the Solicitations.

In addition, ARRA funding may be reallocated as necessary to best achieve the overall goals of ARRA and state law and policy. Funds identified for the Solicitations may be reallocated and used for another purpose only after the Solicitations have closed and awards have been made or the Solicitations have been modified or cancelled.

### **FUNDING LIMITATIONS**

Applicants are encouraged to use existing sources of federal, state and utility funding to leverage the ARRA SEP funding available through this solicitation. ARRA SEP funds may be used to supplement these existing sources of funding, but may not be used to supplant these existing funds.

Pursuant to the federal ARRA guidelines, ARRA SEP funding may not be used to fund projects for gambling establishments, aquariums, zoos, golf courses or swimming pools. No more than 20 percent of each award shall be used to purchase office supplies, library materials, or other equipment whose purchase is not otherwise prohibited. In addition, ARRA SEP funding may not be used:

1. For construction, such as construction of mass transit systems and exclusive bus lanes, or for construction or repair of buildings or structures;
2. To purchase land, a building or structure or any interest therein;
3. To subsidize fares for public transportation;
4. To subsidize utility rate demonstrations or State tax credits for energy conservation measures or renewable energy measures; or
5. To conduct, or purchase equipment to conduct, research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.

### **ELIGIBLE BIDDERS**

Eligible bidders include cities, counties, or groups of cities and counties in California that are in the process of establishing or have already established a municipal financing program for the purposes of funding energy efficiency and on-site solar electric or other on site renewable energy generation improvements in accordance with California Streets and Highways Code Sections [5898.10](#) ~~5898.20~~ – 5898.32 and/or other applicable municipal financing laws. [California law was recently amended by AB 474 \(Statutes of 2009\) to authorize municipal utility districts, irrigation districts, and public utility districts that own and operate an electric distribution system to establish municipal financing programs. Therefore, these entities are also eligible Bidders for the Municipal Financing Program.](#) ~~The scope of eligible bidders may be expanded with changes in the law.~~ The Municipal Financing Program will accept proposals from any entity authorized under California law to establish a municipal financing program of the types described in this PON.



## I. INTRODUCTION, CONTINUED

### PRE-BID CONFERENCE

There will be one Pre-Bid Conference; participation in this meeting is optional but encouraged. The Pre-Bid Conference will be held at the date, time and location listed below. Please call (916) 654-4392 or refer to the Energy Commission's website at [www.energy.ca.gov](http://www.energy.ca.gov) to confirm the date and time.

October 20, 2009  
9:00 am  
California Energy Commission  
Hearing Room A  
1516 9th Street  
Sacramento, CA 95814  
Telephone: (916) 654-4392

### PARTICIPATION THROUGH WEBEX, THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE

- Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.

#### REGISTRATION

- To register for this event, go to
- <https://energy.webex.com/energy/onstage/g.php?d=920665554&t=a>
  1. Click the "Register" button at the bottom of the page.
  2. Provide your information as requested.
  3. You will receive a confirmation email message that contains the details to join the event.

#### COMPUTER LOG ON

Follow the instructions in your confirmation email to join the meeting a few minutes early.

#### TELEPHONE ONLY (No Computer Access)

If you cannot join the meeting via computer, you can listen to the audio via phone by calling toll free 1-866-469-3239 and entering the Meeting Number **920 665 554** followed by the # key. When asked for your Attendee ID number, please press the # key. You will then be entered into the call of the meeting on a muted line.

If you have difficulty joining the meeting, please call the WebEx Technical Support number at (866) 229-3239.

## I. INTRODUCTION, CONTINUED

### QUESTIONS

During the solicitation process, questions of clarification about this PON must be directed to the Contracts Officer listed in the following section. You may ask questions at the Pre-Bid Conference, and you may submit questions via mail, electronic mail, FAX, and by phone. However, all questions must be received by 5:00 pm on Thursday, October 22, 2009. After this date, question and answer sets will be mailed to all parties who submitted questions (so long as they also provided their address), requested a copy of this PON from the Energy Commission Contracts Office and all parties that left their address with the Contracts Officer at the Pre-Bid conference. The questions and answers will also be posted on the Energy Commission's website at: <http://www.energy.ca.gov/contracts/index.html>.

Any verbal communication with an Energy Commission employee concerning this PON is not binding on the State and shall in no way alter a specification, term, or condition of the PON.

### CONTACT INFORMATION

~~Elizabeth Stone~~ [Rachel Grant](#), Contracts Officer  
California Energy Commission  
1516 Ninth Street, MS-18  
Sacramento, California 95814  
Telephone: (916) 654-~~5125~~ [4379](#)  
FAX: (916) 654-4423

E-mail: ~~[estone@energy.state.ca.us](mailto:estone@energy.state.ca.us)~~ [rgrant@energy.state.ca.us](mailto:rgrant@energy.state.ca.us)

### FEDERAL AND STATE LAWS, REGULATIONS, AND GUIDELINES

Projects funded by ARRA must comply with various federal and state requirements. Bidders must review the SEP Funding Opportunity Announcement (DE-FOA-0000052) and the Energy Commission's Terms and Conditions for information regarding these requirements. Although Bidders will be required to adhere to all contract terms and conditions, the following specific provisions may have potentially significant project impacts:

#### Federal

[National Environmental Policy Act \(NEPA\): Bidders selected for funding are restricted from taking any action using federal funds for projects under the contract that would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing a final NEPA determination regarding these projects.](#)

[If the successful Bidder moves forward with activities that are not authorized for federal funding by the DOE Contracting Officer in advance of the final NEPA determination, it is doing so at risk of not receiving federal funding, and such costs may not be recognized as allowable cost share.](#)

[Please complete the NEPA Compliance/Certification Form \(Attachment 7\), which contains additional information about NEPA. Bidders selected for funding must verify compliance with the NEPA prior to the Energy Commission's approval of an agreement.](#)

## I. INTRODUCTION, CONTINUED

**Davis-Bacon Act (Federal prevailing wage law):** In accordance with ARRA Section 1606, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA must be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

For additional information on Davis-Bacon Act requirements, please see the **Davis-Bacon Act Question and Answer Form** (Attachment 8).

**National Historic Preservation Act (NHPA):** Projects involving a building or structure that is included in the National Register of Historic Places (NRHP) or eligible for inclusion in the NRHP require additional documentation.

For additional information on NHPA requirements, please see the **National Historic Preservation Act Form** (Attachment 15). Bidders selected for funding must verify compliance with the NHPA prior to the Energy Commission's approval of an agreement.

**Single Audit Act:** States, local governments, and nonprofit organizations must be in compliance with requirements of the Single Audit Act. The Single Audit Act and Office of Management and Budget (OMB) Circular A-133, *Audits of State, Local Governmental, and Non-profit Organizations*, require entities that expend equal to or in excess of \$500,000 in a fiscal year to have an audit performed in accordance with the Act.

For additional information on Single Audit Act requirements, please see the **Single Audit Act Compliance Form** (Attachment 16). Bidders selected for funding must verify compliance with the Single Audit Act prior to the Energy Commission's approval of an agreement.

**Buy American Act:** In accordance with ARRA Section 1605, ARRA funds may not be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. This requirement may only be waived by the applicable federal agency in limited situations, as specified in ARRA Section 1605.

### **State**

**California Environmental Quality Act:** Projects selected for funding may meet the definition of a "project" for purposes of the California Environmental Quality Act (CEQA). (See Public Resources Code section 21000 et seq.) If this occurs, the Energy Commission's Legal staff will review the projects to determine whether an exemption applies that would prevent further actions under CEQA. If no exemption applies, certain CEQA requirements (such as preparation of an initial study, a negative declaration, or an environmental impact report) must be met prior to the Energy Commission approving the contract. The Applicant will pay the cost for these activities. The cost of CEQA review is not reimbursable under the contract. Please refer to Title 20, California Code of Regulations, Chapter 6, Article 1, including section 2308.

## I. INTRODUCTION, CONTINUED

Please complete the **CEQA Compliance Form** (Attachment 13), which contains additional information about CEQA. Bidders selected for funding must verify compliance with the CEQA prior to the Energy Commission's approval of an agreement.

### California Prevailing Wage Law:

Some projects under this solicitation might be considered public works pursuant to the California Labor Code. If the project is a public work, the Labor Code requires payment of prevailing wages. The California Department of Industrial Relations (DIR) has jurisdiction to decide whether a particular project is or is not a public work. If the project involves construction, alteration, demolition, installation, repair or maintenance work, it probably would be considered by DIR to be a public work. Any agreement resulting from this solicitation will include the requirements for a public works project, such as paying prevailing wage, keeping payroll records, complying with working hour requirements, and apprenticeship obligations.

For information about state prevailing wage requirements, see the **California Prevailing Wage Question and Answer Form** (Attachment 9).

### Additional Laws, Regulations, and Guidelines

In addition to the provisions above, Bidders should be familiar with the following Federal and State laws, regulations, and guidelines that apply to the SEP:

#### Federal

- The American Recovery and Reinvestment Act of 2009  
<http://www.energy.ca.gov/recovery/documents/HR1.pdf>
- Department of Energy State Energy Program Funding Opportunity Announcement DE-FOA-0000052 <https://www.fedconnect.net/FedConnect>
- Title 10 Code of Federal Regulations (CFR) Part 420: State Energy Program  
<http://www.gpoaccess.gov/cfr/index.html>
  - ~~Davis-Bacon Act (40 U.S.C. 3141, et. seq.)~~
  - ~~National Environmental Policy Act (42 U.S.C. 4321, et. seq.)~~
  - ~~National Historic Preservation Act of 1966 (16 U.S.C. 470f)~~
- Office of Management and Budget reporting requirements  
[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-21.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf)  
[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-21-suppl.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21-suppl.pdf)  
[http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-21-suppl2.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21-suppl2.pdf)
- Council of Economic Advisers' Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009, May 2009  
[http://www.whitehouse.gov/assets/documents/Estimate\\_of\\_Job\\_Creation.pdf](http://www.whitehouse.gov/assets/documents/Estimate_of_Job_Creation.pdf)

#### State

- California Energy Commission State Energy Program Guidelines  
<http://www.energy.ca.gov/2009publications/CEC-150-2009-004/CEC-150-2009-004-CTD.PDF>

## I. INTRODUCTION, CONTINUED

- [California](#) Streets and Highways Code Sections [5898.10](#) ~~5898.20~~ - 5898.32 ([amended by](#) California Assembly Bill 811)
- [http://www.energy.ca.gov/recovery/documents/ab\\_811\\_bill\\_20080721\\_chaptered.pdf](http://www.energy.ca.gov/recovery/documents/ab_811_bill_20080721_chaptered.pdf)
- California Home Energy Rating System Program regulations
- <http://www.energy.ca.gov/2008publications/CEC-400-2008-011/CEC-400-2008-011-CMF.PDF>

### **REGISTRATION REQUIREMENTS**

All applicants must be registered and in good standing in accordance with the requirements below:

**Dun and Bradstreet Data Universal Number System (DUNS):** Prior to beginning work, Applicants must obtain a DUNS number or, if necessary, update their organization's information. A DUNS number is a unique identifier used by the federal government to track distribution of federal funds. To obtain a DUNS number or to update information, please visit [http://www.dnb.com/US/duns\\_update](http://www.dnb.com/US/duns_update) or contact the D&B Government Customer Response Center at 1-866-705-5711.

**Central Contractor Registry (CCR):** All Bidders must maintain current registration in the CCR at all times during which they have an active award funded with ARRA funds. The CCR database is the federal government's primary registrant database. It collects, validates, stores and disseminates data in support of federal grants, cooperative agreements, and other forms of assistance. To register, please visit CCR's website at <http://www.ccr.gov>. For assistance, contact the Federal Service Desk at 1-866-606-8220. Registrants must update or renew their registration at least once per year to maintain an active status.

A DUNS Number is one of the requirements for registration in the CCR.

**California Secretary of State's Office:** California business entities as well as non-California business entities conducting intrastate business in California are required to register and be in good standing with the California Secretary of State to enter into an agreement with the Energy Commission. If not currently registered with the California Secretary of State, Bidders are encouraged to contact the Secretary of State's Office as soon as possible to avoid potential delays in beginning the proposed project (should the application be successful). For more information, contact the Secretary of State's Office via its website at [www.sos.ca.gov](http://www.sos.ca.gov).

## I. INTRODUCTION, CONTINUED

### KEY WORDS AND DEFINITIONS

Important definitions for this solicitation are presented below:

Word/Term	Definition
ARB	California Air Resources Board, which has responsibility for overseeing implementation of the Assembly Bill (AB) 32 Climate Change Scoping Plan
ARRA	The American Recovery and Reinvestment Act of 2009.
ARRA Accountability and Transparency Board	Established by ARRA to coordinate and conduct oversight of Federal spending to prevent waste, fraud and abuse by establishing accountability and insuring that the recipients and uses of all funds are transparent to the public.
ARRA Committee	Energy Commission's American Recovery and Reinvestment Act (ARRA) Ad Hoc Committee
Bidder	A respondent to this Solicitation (also referred to as "applicant" in the SEP Guidelines)
<del>Budgetary Range</del>	<del>Minimum funding level, preferred funding level, maximum funding level</del>
Building Commissioning	Building commissioning on existing buildings, also known as retro-commissioning, usually focuses on energy-using equipment such as mechanical equipment, lighting, and related controls with the goal of reducing energy waste, obtaining energy cost savings for the owner, and identifying and fixing existing problems, using diagnostic testing and operations and maintenance tune-up activities.
CCM	Energy Commission Contract Manager
CPUC	California Public Utilities Commission, which directs the administration of public goods charge energy efficiency programs by the IOUs, including a range of programs directed at existing residential buildings.
CSD	California Department of Community Services and Development, which administers the federal Weatherization Assistance Program in California.
DGS	California Department of General Services
DOE	U.S. Department of Energy, which has responsibility for overseeing ARRA funding (including SEP) aimed at creating jobs by improving energy efficiency
Economically Disadvantaged Area	Area where the unemployment rate exceeds the California statewide average unemployment rate for June 2009. Other characteristics, such as higher than average foreclosure rate and lower than average income levels, may also be considered in identifying economically disadvantaged areas.
Energy Commission	California Energy Commission
EPA	U.S. Environmental Protection Agency, which has responsibility in collaboration with DOE for administering the suite of Energy Star programs, including Home Performance with Energy Star
Equipment	Products, objects, machinery, apparatus, implements or tools that have a useful life of at least one year, have an acquisition unit cost of at least \$5,000, and are purchased with ARRA SEP funds.



## I. INTRODUCTION, CONTINUED

HERS Phase I (HERS I)	The requirements, procedures and protocols established by the Energy Commission for conducting field verification and diagnostic testing of newly constructed homes or alterations to existing homes to verify compliance with the California Building Energy Efficiency Standards, as specified by Title 20, Sections 1670-1675, Title 24, Parts 6 and 1, and Residential Reference Appendices, RA2 and RA3.
HERS Phase II (HERS II)	The requirements, procedures and protocols established by the Energy Commission for conducting California Whole-House Home Energy Ratings and California Energy Audits for existing and newly constructed homes, as specified by Title 20, Sections 1670-1675 and the HERS Technical Manual.
HERS Program	California Home Energy Rating System Program as specified in the California Code of Regulations, Title 20, Section 1670-1675.
HERS Provider	An organization that has been approved by the California Energy Commission to administer a HERS Program pursuant to the California Home Energy Rating System Program regulations.
HERS Rater	A person who has been trained, tested and certified by a HERS Provider to perform the functions specified in the California Home Energy Rating System Program regulations.
HPwES	Home Performance with Energy Star
HUD	U.S. Department of Housing and Urban Development, which has responsibility for overseeing many financing and grant funding programs to promote energy efficiency in low and moderate income housing.
IOU	Investor Owned Utilities (privately owned utilities regulated by the California Public Utilities Commission)
Joint Powers Authority	An institution permitted under California law whereby two or more public authorities (e.g., local governments) can operate collectively.
PON	This entire document which is a Program Opportunity Notice.
Proposal	Formal written response to this PON from Bidder
SEP	State Energy Program
Solicitation	The competitive method used to solicit proposals for funding under this Program Opportunity Notice.
Source Energy	Energy that is used at a building site and consumed in producing and in delivering energy to the site, including, but not limited to, power generation, transmission and distribution losses.
State	State of California
Validation Action	An action in the superior court of the county in which the principal office of the public agency is located to determine the validity of any matter authorized to be determined pursuant to Chapter 9 of the California Code of Civil Procedure. Details regarding Validation Action can be found in California Code of Civil Procedure Sections 860-870.5.

## II. Goals and Objectives

### ABOUT THIS SECTION

This section explains the goals and objectives of the Municipal Financing Program that is the subject of this solicitation. This section summarizes the key program design concepts that Bidders should respond to in their program proposals. More detailed explanations of the requirements for the Bidder's response to this solicitation are specified in Section III.

### BACKGROUND

#### MUNICIPAL FINANCING PROGRAM ~~(AB 811-TYPE PROGRAMS)~~ CONCEPT

California Streets and Highways Code Sections [5898.10](#) ~~5898.20~~ - 5898.32 (~~enacted~~ [amended](#) by Assembly Bill (AB) 811, Statutes of 2008) allows the legislative bodies of cities, counties, or groups of cities and counties in California to create a municipal financing program in which property owners may enter into contractual assessments to finance the installation of energy efficiency or distributed renewable energy generation improvements that are permanently fixed to residential (including multi-family), commercial, industrial, or other real property. [AB 474 \(Statutes of 2009\) authorizes municipal utility districts, irrigation districts, and public utility districts that own and operate an electric distribution system to establish municipal financing programs. AB 474 also authorizes the installation of water efficiency improvements by the legislative body of any city, county, city and county, municipal utility district, community services district, sanitary district, sanitation district, or water district.](#) Under these municipal financing programs property owners repay the assessments with their property taxes, and the liens associated with the assessments are given priority over previously-recorded private liens (such as a mortgage).

These municipal financing programs are a potentially important tool in the State's goal to increase energy efficiency and renewable energy generation in California, and they will decrease or eliminate the upfront costs property owners must normally incur in installing such improvements.

The purpose of the Energy Commission's Municipal Financing Program is to assist cities, counties and groups of cities and counties in implementing or continuing their own municipal financing programs, and to do so in a way that will further the objectives of ARRA, DOE and the State of California. To this end, the Energy Commission will work with local governments to ensure that their programs are structured to be cost-effective, sustainable, transparent and able to achieve the greatest energy savings for the amount invested. The Municipal Financing Program will provide funds and support in the manner that will best help achieve those goals.

### ROLE OF LOCAL GOVERNMENTS

Local governments, including Joint Power Authorities, awarded funds under the Municipal Financing Program will administer their programs, oversee quality control, and report to the Energy Commission on progress, effectiveness and energy savings. The local governments must initiate their municipal financing programs using the process described in California Streets and Highways Code Sections [5898.10](#) ~~5898.20~~ -



## **II. GOALS AND OBJECTIVES, CONTINUED**

5898.32 and/or other applicable laws, perform any legal validation actions<sup>2</sup>, secure program funding, and administer the program or contract with a turnkey service to administer the program on their behalf. Local governments should use the ARRA SEP funds to lessen the financial burden they face in creating and administering municipal financing programs, to increase lender confidence, and to lower interest rates and increase bond ratings to make financing attractive to property owners.

### **LOADING ORDER AND ELIGIBLE IMPROVEMENTS**

To encourage the greatest possible benefit for the money invested, municipal financing programs must require, and offer financing for, and also may incentivize, the installation of energy efficiency improvements as a condition of financing on-site solar electric (photovoltaic) generation or other on-site renewable energy generation. Installing energy efficient improvements first will lead to:

- a) Installation of smaller and less costly solar electric systems;
- b) Meeting a greater portion of the building's electricity load with the same size solar electric system; and
- c) Maximizing energy savings for combined energy efficiency and solar electric projects, while providing potential positive cash flow for the total project.

The use of ARRA SEP funding will be awarded on the condition that projects that result from financing that was supported or facilitated by ARRA SEP funding achieve a minimum of 10% reduction in total building energy use through energy efficiency in order to qualify for financing for on-site renewable energy projects. The 10% reduction shall be determined using the Home Energy Rating System (HERS) Phase II index for residential buildings once HERS II-approved HERS Providers and certified HERS Raters are available in the region. The Energy Commission may approve other methods for determining the 10% reduction as it determines necessary. The Energy Commission strongly encourages Bidders to require greater than a 10% total building energy use savings as a stipulation of financing on-site renewable energy installation.

### **ENERGY AUDITS AND QUALITY ASSURANCE**

Energy audits and building commissioning as necessary components of a municipal financing program will help property owners make well-informed decisions and lead to more focused and cost-effective retrofits. Documentation of the HERS Rating, Energy Audit or the investigation phase of building commissioning also educates and informs realtors, lenders, appraisers and potential buyers at time of sale of the building about the improvements that were made to the property, thereby substantiating the value added to the property and lien that remains with the property. HERS ratings, Energy Audits and commissioning investigation costs should be included as project costs for financing to the extent that they are not covered by ARRA SEP funds or through partnership with a utility.

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<sup>2</sup> See California Code of Civil Procedure Sections 860-870.5

## **II. GOALS AND OBJECTIVES, CONTINUED**

Under the Municipal Financing Program, residential audits or ratings consistent with the California Home Energy Rating Program will be provided for homeowners, and commercial energy audits or the investigation phase of building commissioning will be conducted and funded for commercial property owners. ARRA funds may be used to cover the costs of energy audits or building commissioning investigations.

In addition, energy efficiency and distributed renewable energy generation improvements funded through a municipal financing program must be installed properly and in good working order to ensure the cost-effectiveness, energy savings and reputation of the program. Programs awarded funds through the Energy Commission's Municipal Financing Program must have a means of ensuring and demonstrating the quality of installed energy improvements. Contractors installing improvements must comply with state and local licensing laws, obtain building permits, and properly field-verify any measures for which Title 24 Building Energy Efficiency Standards field verification protocols have been established.

### **VERIFICATION AND REPORTING**

Because one of the metrics of a program's success is the amount of energy saved, a quantifiable measure of this savings must be demonstrated through the Bidder's program.

ARRA funds have stringent requirements regarding transparency, which any programs funded through the Energy Commission's Municipal Financing Program must follow. Any ARRA-funded programs may also be susceptible to an audit. Bidders must comply with federal reporting obligations, as specified in the federal ARRA and SEP guidelines.<sup>3</sup>

### **PROPERTY QUALIFICATIONS**

As financing is tied to the property and not the borrower, municipal financing programs to date have tended to require screening processes that generally have been less extensive than those for traditional loans. Given that the subprime lending crisis has been a major contributor to the current economic downturn, a major concern for both local governments and lenders in the development of municipal financing programs has been the potential for participants in a municipal financing program to incur more debt than they are able to repay.

To guard against this possibility, municipal financing programs should screen applicants for creditworthiness. This may include requiring a specific loan-to-value ratio, ensuring that property taxes have been paid in full and on time, or determining that applicants do not owe more than the value of the property.

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<sup>3</sup> See [http://www.energy.ca.gov/recovery/documents/SEP\\_Recovery\\_Act\\_Guidance\\_DE-FOA-00000521.pdf](http://www.energy.ca.gov/recovery/documents/SEP_Recovery_Act_Guidance_DE-FOA-00000521.pdf) and [http://www.whitehouse.gov/omb/assets/memoranda\\_fy2009/m09-21.pdf](http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf).

## II. GOALS AND OBJECTIVES, CONTINUED

### LEGAL CONSIDERATIONS

Mortgage provisions restricting the voluntary addition of a priority lien by the property owner are sometimes included in the contract between a lender and borrower. These provisions are not present in all mortgages. Proposals must indicate how their programs will address such provisions for residential and commercial property owners. This may include requiring notification and/or approval from the primary mortgage lender. In addition, proposals must describe the legal status of their programs. This includes, but is not limited to, resolutions or other official decisions made by Bidder's governing body regarding the proposed program, legal opinions obtained and the status of any validation actions brought to determine the legal validity of the proposed program.

### **SUSTAINABILITY /LASTING CHANGES IN THE MARKET**

Programs funded through the Municipal Financing Program must demonstrate sustainability and long-term viability. A major focus of the SEP is market-transformation, strategic and temporary interventions that effect lasting changes in the way we use our energy resources. In order to effect lasting changes, programs must be carefully structured to continue after the SEP funds are no longer available. Sustainability may be achieved through the establishment of revolving financing funds or other methods.

### REGIONAL FOCUS

The Energy Commission encourages collaboration among communities, on a county-by-county basis or through a joint powers authority, to create a larger and more effective municipal financing program. Municipal financing programs that operate on a countywide or ~~regional~~ multi-city/county scale will have the greatest opportunity for economies of scale and ease of pooling financing if bond sales are planned. Larger programs will have lower administrative costs while reaching more property owners throughout the State.

## III. Program Proposal Requirements

### PROGRAM PROPOSAL REQUIREMENTS

Please describe the program you are proposing providing the following information and in the order itemized below:

#### PROGRAM TITLE

Provide the title by which the program will be referenced in the proposal.

#### EXECUTIVE SUMMARY

Provide an Executive Summary (Attachment #6) of the proposed program not to exceed two pages in length.

- Explain the key proposed program concepts, strategies and approaches.
- Summarize how the proposed program responds to the goals and objectives of this Solicitation.
- Describe the financing plan, amount of Energy Commission funds requested and proposed uses for these funds, region covered by the program, and total estimated program cost through March 2012 (including leveraged funds).
- Explain the team organizational structure and key partners.
- Summarize the major anticipated impacts from the proposed program such as jobs, energy savings, sustainability and market transformation.

### PROGRAM DESIGN/EVALUATION CRITERIA

#### A. Financing Plan

Provide the financing plan for the proposed program. The financing plan must, at a minimum, answer the following questions. If this information is not yet available, answer the questions to the extent possible and include both a discussion of what will be done to complete the answers and an estimated schedule of when this information will be available. ~~However, Bidders must submit this information by the proposal deadline:~~

1. Will the Bidder ~~issue bonds or~~ contract with a bank or other lender to issue financing for each property owner?
2. What is the status of the Bidder's financial commitments with lenders regarding the proposed program?

~~If bonds will be issued:~~

~~a. Is a source of interim financing available?~~

~~b. What is the bidder's historical bond rating (if the bidder's program spans multiple cities and/or counties, bidder should provide the historical bond rating for each and, if possible, the estimated bond rating for the program)?~~

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

- ~~c. What is the anticipated total dollar amount at which the financing will go to a bond sale?~~
- ~~3. Has a letter of credit been issued by a lender?~~
3. For financing offered to property owners:
- a) What interest rate will be offered ~~by~~ to property owners?
  - b) Is the ~~nearest~~ interest rate fixed or variable?
  - c) Will property owners be charged any fees to apply and/or participate in the program?
  - d) What are the program's minimum and maximum financing amounts?
  - e) How long is (are) the financing ~~payback~~ repayment term(s)?
4. If bonds will be issued:
- a) What will be the source of interim financing?
  - b) How many bond issues has the Bidder participated in? Describe two to three of those relevant issues, the bond rating, and your role.
  - c) What is the anticipated total dollar amount at which the financing will go to a bond sale?
5. Will financing coincide with other existing or potential energy efficiency and renewable energy financial incentives (i.e., California Solar Initiative, utility rebates, and tax incentives)?
6. Has the Bidder ever filed for bankruptcy?
7. What funds and resources, if any, is the program proposing to leverage with the ARRA SEP funds?
8. How does the Bidder's program propose to transition to self-sufficiency after the cessation of ARRA SEP funding?

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### B. Uses for Energy Commission Funds

The Energy Commission intends to use the ARRA SEP funds in a manner that will best help local governments establish or continue their municipal financing programs. Indicate which of potential uses below (multiple uses may be chosen) for Energy Commission funds are being proposed. Include a detailed description of how the ARRA funding is anticipated to improve aspects of the proposed program and increase the likelihood of its success, including but not limited to: the effect on application and other participant fees, interest rates, bond ratings, the program's general fund, leveraging of private and other funding, job creation and retention, and energy use:

1. Cover program start-up costs, such as legal services and financial advisor costs;

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

2. Cover some ongoing program costs (such as staffing, market surveys, marketing and tracking and reporting energy savings);
3. Home energy ratings, energy audits and the investigation phase of building commissioning projects;
4. Interim financing (warehouse line of credit);
5. [Loan loss reserve fund](#);
6. Interest rate buy-down; and
7. Homeowner ~~grants~~ [rebates](#) (for low income homeowners or energy efficiency retrofits).

Indicate which of the above uses (multiple uses may be chosen) for Energy Commission funds are being proposed. Include a detailed description of how the ARRA funding is anticipated to improve aspects of the proposed program and increase the likelihood of its success, including but not limited to: the effect on application and other participant fees, interest rates, bond ratings, the program's general fund, leveraging of private and other funding, job creation and retention, and energy use.

See DOE's Frequently Asked Davis-Bacon Questions and Answers for guidance regarding which activities require payment of federal prevailing wages.<sup>4</sup> For detailed information about prevailing wage and the process to determine if the proposed Program is a public work, see Attachment 8.

**~~Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.~~**

#### C. Leveraged Funds/Resources

[Document the amount, type, source and timing for leverage funding that is included in the proposed program.](#) Explain what resources and funding will be actively used by the proposed program to supplement the requested ARRA SEP funding to maximize the effective delivery of all components of the program to accomplish the benefits described in the Goals and Objectives section. These may include, but are not limited to, bond sales, the general fund, direct financing from lenders, the California Solar Initiative, federal energy tax credits, and utility rebates.

Explain the following:

1. Each type of resource or funding that will be used;
2. To what extent that resource/funding will be under the control of the program;
3. If the resource/funding is under the control of another entity, the extent to which that entity has committed to collaborate with the program to [i](#)ensure that the resources/funding will be provided to support the program, and the actions that the program will take to [i](#)ensure the provision of the resource/funding;
4. What conditions will constrain the use of the resource/funding and how those conditions will be addressed by the program to [i](#)ensure their use in support of the program.

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<sup>4</sup> [http://apps1.eere.energy.gov/state\\_energy\\_program/davis\\_bacon\\_faqs.cfm](http://apps1.eere.energy.gov/state_energy_program/davis_bacon_faqs.cfm).



### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

Explain how the leveraged funds reflect a commitment by all the partners to actively participate in the program and sustain the program benefits into the future. Explain how the leverage funding will be used to accomplish the program goals and to successfully execute the program design. Describe how the leveraged funds are commensurate with the benefits gained by the funding partners and their constituents. Identify the level of risk and other issues that may arise due to each source of leverage funding. Leveraged funds are further described in Section VI. Explain each type and source of leveraged funds in the budget worksheets that call for leverage fund information. Provide detail on activities to achieve Leverage Funding in the proposed Scope of Work.

**~~Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.~~**

#### D. Eligible Improvements

List the improvements eligible for funding under the proposed program. At a minimum:

1. Include energy improvements listed in both the Second and Third Tiers, of the California Comprehensive Residential Building Retrofit Program for residential customers as specified in Section II, Table I, of the California Comprehensive Residential Retrofit Program solicitation<sup>5</sup> (note that municipal financing programs may determine that water efficiency improvements may or may not be eligible);
2. Provide a strategy for how the program will ~~strongly transition towards~~ increase the uptake of Third Tier (whole house) approaches within one year of award; and
3. Include the permanent improvements eligible for the Municipal and Commercial Building Targeted Measure Retrofit Program as specified in Section II of the Municipal and Commercial Building Targeted Measure Retrofit Program solicitation<sup>6</sup>.

Additional measures can be proposed for consideration by the Energy Commission. These measures must have previously demonstrated cost-effective energy savings in numerous applications and be permanently affixed to the property. All proposed eligible measures, ~~including any water efficiency improvements~~, must be enumerated in the proposal, as well as an explanation of why measures not listed as eligible for the California Comprehensive Residential Building Retrofit Program or the Municipal and Commercial Targeted Measure Building Retrofit Program should be approved by the Energy Commission as part of the Municipal Financing Program. All measures that are eligible for financing must be installed in conformance with state and local building codes, licensing laws and permitting requirements.

Whole-house retrofits are essential if the State is to meet its existing residential energy efficiency and climate change goals. Proposals that include requirements or incentives for whole-house retrofits will receive a higher score for this criterion.

<sup>5</sup> [http://www.energy.ca.gov/contracts/RFP\\_400-09-403/RFP\\_400-09-403.PDF](http://www.energy.ca.gov/contracts/RFP_400-09-403/RFP_400-09-403.PDF).

<sup>6</sup> [http://www.energy.ca.gov/contracts/RFP\\_400-09-402/RFP\\_400-09-402.PDF](http://www.energy.ca.gov/contracts/RFP_400-09-402/RFP_400-09-402.PDF).

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

***Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.***

#### **E. Loading Order**

Indicate that the proposed program requires and will offer financing for energy efficiency that will achieve at least a 10% reduction in total energy use as a condition of financing on-site solar electric or other on-site renewable generation. The 10% reduction shall be determined using the Home Energy Rating System (HERS) Phase II index for residential buildings once HERS II-approved HERS Providers and certified HERS Raters are available in the region. Explain the method or methods that will be employed as a temporary measure to determine the 10% reduction in the absence of HERS II-approved HERS Providers and certified HERS Raters in the region covered by the proposed program. The Energy Commission may approve other methods for determining the 10% reduction as it determines necessary.

Detail any incentives or other mechanisms to maximize energy efficiency, and whether the proposed program will require and offer financing for greater than a 10% reduction in total energy use through energy efficiency as a condition of financing on-site solar or other renewable generation installations.

***Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.***

#### **F. Home Energy Ratings, Energy Audits, and Building Commissioning**

Explain how the proposed program will meet the home energy ratings and energy audit requirements of the California Comprehensive Residential Building Retrofit Program, including, for third tier measures under that program, providing California Home Energy Ratings or California Energy Audits, as specified by the California Home Energy Rating Program (HERS II). Describe how commercial energy audits or the investigation phase of building commissioning for commercial properties will be conducted and funded as part of the proposed program.

Programs that are proposed to target multi-family buildings that may be outside the scope of HERS II and Home Performance with Energy Star shall explain how their proposed program will establish parallel and comparable energy audit approaches to achieve whole building energy efficiency opportunities unique to multi-family buildings.

***Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.***

#### **G. Property Qualifications**

Describe methods the proposed program will use to screen applicants for a basic level of creditworthiness. Explain how these methods will protect the proposed program from defaults and increase lender confidence.



### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

~~Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.~~

#### H. Legal Considerations

Describe current and planned progress in the legal status of, and any legal concerns regarding, the proposed program, including but not limited to resolutions or other official decisions made by Bidder's governing body regarding the proposed program and the ~~the~~ status of future, pending, or already obtained unqualified legal opinions and validation actions.

Explain how the proposed program will address mortgage provisions restricting the property owner's voluntary acceptance of the addition of a priority lien for both residential and commercial property owners. This may include requiring notification of and/or approval from the primary mortgage lender.

~~Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.~~

#### I. Sustainability/Lasting Changes in the Market

Explain how the proposed program will accomplish DOE's SEP goal of strategic intervention that causes lasting changes in the market. Explain how the proposed program will jump start the effort to meet California's aggressive Energy Action Plan goals to achieve an average of 40% savings in existing California residences by 2020. Describe the methods the proposed program will use to ensure its sustainability after ARRA funds are no longer available, including an explanation of how additional funds from the Energy Commission will aid the program to assure sustainability. Proposals that include a revolving financing fund must specify the following:

1. Whether an increased interest rate will be used to sustain the revolving fund;
2. How often or at what trigger additional capital will be infused into the revolving fund; and,
3. What percentage of the total amount of the fund this additional capital will constitute.

~~Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.~~

#### J. Regional Approach

The Energy Commission encourages collaboration among communities, on a county-by-county basis or through a joint powers authority, to create a larger and more effective municipal financing program.

Detail the geographical scope of the proposed program, including potential population covered by the proposed program's region. Include any available information regarding expected market penetration, in terms of both percentage of the total population

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

throughout the region and penetration within specific target populations or communities within the region.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### K. Verification of Energy Savings

Describe the data collection and computation methods required to calculate or estimate the energy savings and demand reductions from the ~~targeted measure~~ retrofits resulting from this program. Explain the activities that will be included in the program to measure or estimate ~~verify~~ the ~~actual~~ energy savings and demand reductions for the purposes of ARRA SEP progress reporting due to the retrofits. The Energy Commission will be separately evaluating the ARRA SEP Programs using contract resources. This separate program evaluation will include surveying a sample of retrofit program participants. The evaluations may be conducted via mail, phone and/or field surveys and may also require pre-retrofit and post-retrofit utility billing data. Describe the strategies included in the proposed program to encourage retrofit participants to cooperate with these ARRA SEP Program evaluations.

See Section VI. ARRA Specific Important Information, Program Evaluation, Project Monitoring, and Verification for additional information.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### L. Participant Recruitment and Communication

Explain how the proposed program will establish excellent marketing, outreach, education and information strategies that will lead to successful recruitment of participants and will communicate the program approaches so that participants will choose to make the energy improvements that are recommended for their residential, commercial or industrial buildings. Explain how the proposed program will communicate information regarding the program and will encourage participants to follow the State's loading order and move toward whole-house retrofits. Explain how the proposed program will provide marketing, outreach, education and information about the program by leveraging the combined information resources and taking maximum advantage of the access to potential participants of the following: local governments in the region covered by the proposed program; subcontractors such as turnkey services and marketing firms; utilities; and, any other organization that will be involved in marketing the proposed program. Explain what marketing, outreach, education and information methods will be used and how sub-sets of the population of potential participants will be targeted.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

#### M. Program Cost Effectiveness

Determine the cost effectiveness of the proposed program by converting the estimated energy savings of the program to source BTUs<sup>7</sup> and dividing by the amount of requested ARRA SEP funds, showing and justifying the calculations. Compare to the DOE and ARRA goal of 10 million source Btus saved per \$1,000 of SEP money spent.

Explain why the requested funds are appropriate, relative to the goals and objectives of the proposed program. Justify the amount of requested funds based on the resultant value to the state such as the number and type of jobs created, energy savings, demand reductions and sustainable market change.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### N. Quality Assurance/Conformance with California Law

Explain how the proposed program will ensure that installation of energy improvements will be completed in conformance with California law:

1. How the proposed program will ensure that building permits have been pulled for the work, and that Contractors are [of the right type to perform the work and are](#) in good standing with the Contractors State License Board.
2. How the proposed program will ensure that the California Building Energy Efficiency Standards requirements for alterations to existing buildings are met for each building project and will coordinate with HERS Providers and Raters, other Energy Auditors/Raters, and Commissioning Providers to ensure that required field verification and diagnostic testing is completed.
3. How the proposed program will ensure and demonstrate the quality of installed energy improvements (both energy efficiency and onsite renewable generation).
4. What quality assurance procedures will be undertaken to maintain the cost-effectiveness, energy savings and reputation of the program.
5. How the proposed program will coordinate with HERS Providers and Raters to ensure that HERS Phase II procedures are followed for whole-house retrofits.
6. How the program will ensure that measures are installed by well qualified Contractors, including training and certification consistent with Home Performance with Energy Star Guidelines.

Programs that are proposed to target multi-family buildings that may be outside the scope of HERS II and Home Performance with Energy Star shall explain how their proposed program will establish parallel and comparable field verification approaches to achieve whole building energy efficiency opportunities unique to multi-family buildings. Provide details on the methods included in the program design to assure that commercial retrofit measures are installed properly and functioning efficiently. The Energy Commission encourages Bidders to define, implement and fine-tune acceptance test methods for the retrofit measures.

Describe any additional measures not listed above by which the proposed program will [ensure](#) and demonstrate the quality of installed energy improvement.

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<sup>7</sup> Electric energy saved shall be converted to source Btus by multiplying kWh by 10,239 BTU/kWh

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

~~Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.~~

#### O. Team Organizational Structure

Describe the organizational structure of the program, and provide an organizational chart of the entire program team. Provide a short description of each subcontractor and partner, and explain their specific role in the program. Describe the relationship between the Bidder, subcontractors and partners. Summarize any history of working relationships between the team members, noting any significant success stories.

Identify the location of the Bidder's, subcontractors' and partners' businesses ~~locations~~ and discuss methods of minimizing costs to the State. Identify a primary contact person for the program. Describe any technical capabilities that would facilitate communicating with the Energy Commission and managing the program (e.g., web conferencing, web portal for document management and team collaboration).

~~Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.~~

#### WORKFORCE DEVELOPMENT AND JOB CREATION

Use the Council of Economic Advisers' Estimates of Job Creation from the American Recovery and Reinvestment Act of 2009, *May 2009*<sup>8</sup> to provide a formula-based estimate of jobs created by the proposed program. Divide the total investment in the program by \$92,000 to estimate the number of direct jobs created. The total investment should include ARRA SEP funding and all leveraged funds.

Describe each of the types of jobs expected to be created or retained by the proposed program. Provide an estimate of the number of direct jobs expected to be created based on the labor requirements for the proposed audits and retrofits as well as the direct jobs required to deliver the Scope of Work, including but not limited to program marketing and participant recruitment, training of all persons involved in delivering services, and other job-creating program components.

Describe the proposed approach to training Contractor staff, auditors, retrofit technicians and other professionals, as appropriate and if applicable, to implement the proposed program. Explain the coordination planned with the Green Jobs Training Program<sup>9</sup>, utility training centers, HERS Providers and other existing and emerging

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<sup>8</sup> [http://www.whitehouse.gov/assets/documents/Estimate\\_of\\_Job\\_Creation.pdf](http://www.whitehouse.gov/assets/documents/Estimate_of_Job_Creation.pdf).

<sup>9</sup> The California Energy Commission, the California Employment Development Department, the Employment Training Panel, and the California Workforce Investment Board, in collaboration with The Green Collar Jobs Council, are leading a statewide partnership of state agencies, educational institutions, local workforce investment boards, community organizations and employers to deliver the California Green Jobs Training Program, also known as the California Clean Energy Workforce Training Program. Information about this program can be found at <http://www.energy.ca.gov/greenjobs/index.html> and at [http://www.edd.ca.gov/Jobs\\_and\\_Training/WDSFP Workforce Development Solicitations for Proposals.htm](http://www.edd.ca.gov/Jobs_and_Training/WDSFP_Workforce_Development_Solicitations_for_Proposals.htm). Information about local awardees of ARRA funded Green Jobs Corp grants can be found at [http://www.edd.ca.gov/Jobs\\_and\\_Training/WDSFP CGJC Award list.htm](http://www.edd.ca.gov/Jobs_and_Training/WDSFP_CGJC_Award_list.htm). Information about the August

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

workforce development efforts across the state to bring entry-level workers into the energy efficiency and distributed renewable retrofit workforce and provide new job skills to professional tradespeople.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### ENERGY, PEAK DEMAND, AND GHG EMISSIONS REDUCTIONS

Document, explain and justify the estimates of electricity savings, natural gas savings and peak demand reductions expected from the proposed program. The Energy Commission will use California specific emission factors to calculate the greenhouse gas emission reductions expected from the energy savings estimates provided by the Bidder. The Bidder does not need to provide estimates of the GHG emission reductions from the proposed program.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### ECONOMICALLY DISADVANTAGED AREAS

Economically disadvantaged areas are those that have unemployment rates that are higher than the statewide average, based on data from the Employment Development Department Labor Market Information Division, for the month of June 2009.<sup>10</sup>

Applicants should compare the unemployment rates for the region covered by their proposed program compared to that of other areas of the state and the statewide average unemployment rate. Unemployment rates for areas within a region may be considered if the proposal explains how the proposed program will place emphasis on those areas. Other characteristics of economically disadvantaged areas, such as high foreclosure rates and low income levels, may also be considered if explained in the proposal.

Explain the extent to which the proposed program is targeted to create jobs and enhance the economy in economically disadvantaged areas of the state that have been particularly impacted by California's housing and economic crisis. Explain how the proposed program will coordinate with and leverage affordable housing and neighborhood stabilization programs to bring not only the energy bill savings, but also the improved comfort, indoor air quality, and safer and quieter home environments resulting from deeper retrofits to under-served, economically disadvantaged populations.

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6, 2009 California Clean Energy Workforce Training Program Solicitation for Proposals can be found at [http://www.edd.ca.gov/Jobs\\_and\\_Training/pubs/wsin09-7.pdf](http://www.edd.ca.gov/Jobs_and_Training/pubs/wsin09-7.pdf).

<sup>10</sup> See Employment Development Department News Release No. 09-32, July 17, 2009, [http://www.edd.ca.gov/About\\_EDD/pdf/urate200907.pdf](http://www.edd.ca.gov/About_EDD/pdf/urate200907.pdf).

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### TIME CRITICALITY

Demonstrate that the requested ARRA SEP funding will be expended to complete all planned energy retrofits by March 31, 2012. Document the proposed plans to monitor implementation progress so that program resources can be adjusted as necessary to achieve the proposed retrofit savings by the March 2012 deadline. Provide a schedule from start of contract (assume start date of January 1, 2010) to March 31, 2012, that delineates progress reports, Critical Program Reviews and other program milestones. Include information and/or evidence that support this schedule. Provide details that establish certainty that progress reports will be provided and Critical Program Reviews will be conducted so that resources can be reallocated by July 1, 2010, if necessary.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### PROGRAM TRANSPARENCY AND REPORTING

Explain how the Bidder will comply with the transparency and reporting requirements of the Federal Government, State of California, Energy Commission, ARRA, and DOE for SEP programs. Provide details on how the Bidder will enforce these transparency and reporting requirements for sub recipients and vendors. Describe the proposed methods to collect project performance data, compute key project metrics, transfer data to the Energy Commission, and publish project results. Explain how the Bidder's methods are designed to be flexible enough to meet probable changes to known tracking and reporting requirements for ARRA SEP programs.

Describe the financial and accounting processes and procedures the Bidder will use to safeguard ARRA SEP funds from fraud, misuse and waste. Bidders that are awarded SEP funds must implement adequate financial and accounting processes and procedures to safeguard ARRA SEP from fraud, misuse and fraud. The Energy Commission is informed that it will likely be audited by both the State and DOE. As part of these audits an awarded Bidder's contract may also be audited. Attachment 11 lists the elements of a program that could be considered as part of audit. This list is provided by way of example only and is NOT exhaustive of the elements or the type of information that could be considered as part of an audit.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### PROGRAM TEAM QUALIFICATIONS AND EXPERIENCE

Document the program team's qualifications for conducting a highly effective program that will meet the goals, objectives and strategies identified in this solicitation, and performing the tasks described in the Scope of Work. Describe the nature and scope of



### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

prior work that is related to the goals, objectives, and strategies of this solicitation and tasks in the Scope of Work. List all Bidder staff, Subcontractor staff and partners, including those who are not anticipated to receive ARRA funding, and describe their roles in completing each task. Provide job classifications, relevant experience, education, academic degrees, and professional licenses of these staff. Provide a current resume for all team members. Identify the percentage of time each team member will be available throughout the contract. Describe their familiarity with the administration, management, and their technical expertise in meeting the goals, objectives and strategies of the solicitation and performing pertinent tasks identified in the Scope of Work. Provide detail on the involvement of each team member in the proposed Scope of Work tasks and subtasks and the appropriate budget worksheets.

For the Bidder and each subcontractor, provide 3 references who can independently assess that Bidder's or subcontractor's effectiveness in previously delivering similar programs or meeting similar responsibilities (use the Reference Form in Attachment 18).

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### SCOPE OF WORK AND DELIVERABLES

Using the above criteria, Clearly lay out the plan to achieve the goals and objectives of the proposed program. Articulate the sequence of tasks, milestones, sub-tasks and deliverables necessary to conduct the program activities and document progress and accomplishments. Include the following required tasks and deliverables in the Scope of Work for the proposed program. The Bidder shall plan for the completion of these required tasks in his proposed program budget and schedule.

~~**Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.**~~

#### TASK 1: CONTRACT MANAGEMENT

##### A. KICKOFF MEETING

The goal of this task is to establish the lines of communication and procedures for implementing this Agreement.

##### The Contractor shall:

- Attend a "kick-off" meeting with the Commission Contract Manager (CCM), the Contracts Officer, and a representative of the Accounting Office. The Contractor shall bring their Project Manager, Contracts Administrator, Accounting Officer, and others designated by the ~~Commission Contract Manager~~ CCM to this meeting. The administrative and technical aspects of the Agreement will be discussed at the meeting. Prior to the kick-off meeting, the ~~Commission Contract Manager~~ CCM will provide an agenda to all potential meeting participants.

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

The administrative portion of the meeting shall include, but not be limited to, the following:

- Terms and conditions of the Agreement
- Critical Project Reviews – expectations and schedule
- Leverage fund documentation
- Permit documentation
- [Training on ARRA SEP reporting requirements](#)

The technical portion of the meeting shall include, but not be limited to, the following:

- The ~~Commission-Contract Manager's~~ [CCM's](#) expectations for accomplishing tasks described in the Scope of Work;
- An updated Schedule of Deliverables
- Processes for submitting, reviewing and approving Progress Reports, Task Deliverables and Final Report

The ~~Commission-Contract Manager~~ [CCM](#) shall designate the date and location of this meeting.

#### B. INVOICES

The Contractor shall prepare an invoice for all contract expenses performed at each stage identified in the schedule of the proposed program. The official invoice is to be submitted to the Energy Commission's Accounting Office.

#### C. SUBCONTRACTORS

In the event subcontractors are part of the contractor's Proposal, the contractor shall manage and coordinate subcontractor activities. The Contractor is responsible for the quality of all subcontractor work. If new subcontractors are added, the contractor shall notify the CCM who will follow the Energy Commission's process for adding or replacing subcontractors.

#### D. MONTHLY PROGRESS REPORTS

The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the objectives of the project. This task includes the mandatory reporting activities for the ARRA SEP programs.



### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

The Contractor shall:

- Prepare monthly progress reports which summarize all contract activities conducted by the Contractor for the reporting period, including an assessment of the ability to complete the contract within the current budget and on schedule, and any anticipated cost overruns.
- Submit each progress report to the CCM within 3 working days after the end of the reporting period.
- Submit electronic data to the relevant ARRA SEP tracking and reporting entities

Deliverables:

- Monthly Progress Reports
- Monthly submittal of electronic data to ARRA SEP tracking and reporting entities

#### E. CRITICAL PROGRAM REVIEWS

The goal of this task is to determine if the Contractor's project should continue to receive SEP funding to complete this Agreement and whether there are any modifications that need to be made to the tasks, subtasks, deliverables, schedule, or budget. The first Critical Program Review (CPR) shall be held within the first six months of the contract start date to determine the level of funding that is appropriate for the tasks and to ensure work will be completed on schedule. Additional CPRs shall be scheduled throughout the term of the agreement.

CPRs provide the opportunity for frank discussions between the Energy Commission and the Contractor. CPRs generally take place at key, predetermined points in the Agreement, as determined by the ~~Energy Commission Contract Manager~~ CCM and as shown in the Technical Task List and in the Schedule of Deliverables. However, the ~~Energy Commission Contract Manager~~ CCM may schedule additional CPRs as necessary, and any additional costs will be borne by the Contractor.

CPR participants include the ~~Energy Commission Contract Manager~~ CCM and the Contractor, and may include the Energy Commission Contracts Officer, one or more members of the ARRA Committee or their designee, other Energy Commission staff and management, and any other individuals selected by the ~~Energy Commission Contract Manager~~ CCM to provide support to the Energy Commission.

The ~~Energy Commission Contract Manager~~ CCM shall:

- Determine the location, date and time of each CPR meeting with the Contractor. These meetings generally take place at the Energy Commission, but they may take place at another location.
- Send the Contractor the agenda and a list of expected participants in advance of each CPR.
- Conduct and make a record of each CPR meeting. One of the outcomes of this meeting will be a schedule for providing the written determination described below.

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

- Determine whether to continue the project, and if so, whether or not to modify the tasks, subtasks, schedule, deliverables, and budget for the remainder of the Agreement, including not proceeding with one or more subtasks. If the ~~Energy Commission-Contract Manager~~ [CCM](#) concludes that satisfactory progress is not being made, this conclusion will be referred to the Energy Commission's ARRA Committee for its concurrence.
- Provide the Contractor with a written determination in accordance with the schedule. The written response may include a requirement for the Contractor to revise one or more deliverables that were included in the CPR. The written determination may also include the Energy Commission decision on the amount of ARRA SEP funds to encumber into the Agreement.

The Contractor shall:

- Prepare a CPR report for each CPR that discusses the progress of the Agreement toward achieving its goals and objectives. This report shall include recommendations and conclusions regarding continued work of the projects. This report shall be submitted along with any other deliverables identified in the Scope of Work. These documents shall be submitted to the ~~Commission-Contract Manager~~ [CCM](#) and any other designated reviewers at least 5 working days in advance of each CPR meeting.
- Present the required information at each CPR meeting and participate in a discussion about the Agreement.

Deliverables:

- CPR Report
- CPR deliverables identified in the Scope of Work

**~~Proposals that receive a score of zero (0) points for this criterion will be rejected. See Section VII (Evaluation Process and Criteria) for information on the Scoring Scale.~~**

#### F. FINAL REPORT

The goal of this task is to prepare a comprehensive written Final Report that describes the original purpose, approach, results and conclusions of the work done under this contract. The CCM will review and approve the Final Report. The Final Report must be completed on or before the termination date of the contract. The Final Report shall be a public document.

The Contractor shall prepare a draft Final Report summarizing the tasks under this agreement, and shall encompass all tasks performed under this agreement..

The draft final report shall be prepared in a language easily understood by the public or layperson with a limited technical background, and submitted to the ~~Commission~~ [Contract Manager](#) [CCM](#) for review and comment. The draft Final Report shall follow the Energy Commission's report format as specified by the ~~Commission-Contract Manager~~ [CCM](#). The ~~Commission-Contract Manager~~ [CCM](#) will review the draft Final Report,

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

provide comments, and request changes as needed. The Contractor will then revise the draft and submit a Final Report as directed by the ~~Commission-Contract Manager~~ [CCM](#).

After approval of the Final Report by the ~~Commission-Contract Manager~~ [CCM](#), the Contractor shall deliver one original, reproducible 8 1/2" by 11" camera-ready master in black ink of the Final Report. Illustrations and graphs shall be sized to fit an 8 1/2" by 11" page, readable if printed in black and white. In addition, the Contractor shall deliver an electronic copy (CD ROM or memory stick) of the full text in Microsoft Word file (doc.). Both the final meeting and the Final Report must occur 15 days prior to the ending term of this Agreement.

## TASK 2: PROGRAM DELIVERY

### A. IMPLEMENTATION PLAN

The goal of this task is to develop a detailed plan to complete the ~~<Insert Program Title>~~ [proposed](#) program.

The Contractor shall:

- Prepare a Draft Implementation Plan that includes, but is not limited to, the following:
  - A list of the specific activities that will be conducted to deliver the program,
  - Explanations for how the contractor, subcontractors, and any other organization that is key to the success of the program (such as financing institutions), will contribute to the completion of the program activities,
  - A detailed Financing Plan,
  - A timeline for the program that delineates the schedule for each program activity, including invoices,
  - Milestones that can be used to gauge progress towards the program objectives;[i](#) [and](#)
  - Contingency plans for the critical components of the program,
- Present the draft Implementation Plan to the Commission Contract Manager via a phone conference or physical meeting;[i](#) [and](#)
- Prepare the Final Implementation Plan that addresses the comments received on the draft plan;[i](#)
- ~~If the proposed program includes separable components (such as program startup or ongoing program administration), the Implementation Plan shall discretely delineate the activities, partners, timelines, milestones and contingency plans separately for each component;~~

Programs that are proposed to target multi-family buildings that may be outside the scope of HERS II and Home Performance with Energy Star shall explain in their Implementation Plan how they would propose to establish parallel and comparable energy audit and field verification approaches to conduct Third Tier level of services to achieve whole building energy efficiency opportunities unique to multi-family buildings. The Energy Commission will provide feedback on these proposed approaches and will provide direction for how to extend HERS II approaches to establish energy audit and field verification procedures that are parallel and comparable.

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

- ~~• If the proposed program includes separable components, the Implementation Plan shall discreetly delineate the activities, partners, timelines, milestones and contingency plans separately for each component.~~

Deliverables:

- Draft Implementation Plan
- Final Implementation Plan

#### B. ADDITIONAL SUBTASKS

Include additional subtasks under the Program Delivery Task as necessary to successfully complete the proposed program. The following list of subtasks includes examples of appropriate program activities that could be included as Program Delivery subtasks:

- Workforce Development
- Participant Recruitment
- Energy Audits
- Retrofit Installations
- Quality Assurance
- Verification of Energy Savings
- Program Reporting

Each subtask should include a description of the task goal, a list of contractor activities, and resulting deliverables.

#### Deliverables and Due Dates

Summarize the deliverables and due dates for the Scope of Work in a tabular format. The deliverables already listed are contract requirements that the Bidder must incorporate into the proposed deliverables list and also budget and schedule resources for in the proposal.

Task	Deliverable	Due Date
1	Monthly Progress Reports	Monthly
1	Critical Program Review Reports	Within 30 days of CPR meetings
1	Final Report	End date of contract
2	Draft Implementation Plan	Within 30 days of contract start date
2	Final Implementation Plan	Within 10 days of receipt of Contract Manager comments on Implementation Plan

#### Program BUDGET AND SCHEDULE

Using the budget forms, provide a budget and schedule for each task and subtask included in the proposed Scope of Work. The Bidder shall provide all budget detail for the requested SEP funding level. This budget should reflect the most robust program you can deliver within the expenditure deadline. ~~If the proposed program includes~~

### III. PROGRAM PROPOSAL REQUIREMENTS, CONTINUED

~~separable program components, the Bidder shall provide budget detail to delineate planned expenditures for each component.~~

~~The Evaluation Committee must evaluate and score your proposal based upon the components of your proposed program, they cannot pick and choose components. Therefore, bidders may wish to separate components and bid each separately, so long as each proposal individually meets all other requirements (such as a minimum bid of \$2 million).~~

Demonstrate that the budget information is consistent with the proposed scope of work and itemizes reasonable costs for personnel, subcontractors, materials, operating expenses, fees, etc., for each subtask. Provide sufficient budget information to allow the Energy Commission to evaluate that there is an appropriate ratio of direct versus indirect costs considering Indirect Overhead, General and Administrative and Profit percentage rates.

Indicate the total program budget, ARRA SEP budget, and the leveraged funds budget for each task and subtask in the scope of work. Justify the expenditures by subtask by itemizing the budget in sufficient detail. The budget should be delineated by personal services, subcontractors, operating expenses, fees, and total expenditures.

Demonstrate that the key personnel and subcontractors will be committed to the proposed program for the appropriate number of hours and functions to accomplish the activities described in the scope of work. See Exhibit B and the instructions for completion of the Budget forms.

#### **DESCRIPTION OF PREVIOUS PROGRAMS**

~~Each Bidder shall supply a list and description of at least three programs conducted by its organization that demonstrate its ability to successfully administer the proposed program. The descriptions must include, but will not be limited to, the structure of the programs, the bidder's role(s), the programs' success, and similarities to the proposed program. If the administration will be conducted by a subcontractor, the Bidder shall provide at least three completed Client Reference Forms for that subcontractor.~~

## IV. Proposal Format and Required Documents

### ABOUT THIS SECTION

This section contains the format requirements and instructions how to submit a proposal. The format is prescribed to assist the Bidder in meeting State bidding requirements and to enable the Energy Commission to evaluate each proposal uniformly and fairly. Bidders must follow all Proposal format instructions, answer all questions, and supply all requested data.

### PROPOSAL LENGTH LIMIT

Proposals must be presented in a clear, complete, and concise manner. The Program Proposal (Volume II) (exclusive of Table of Contents and solicitation should be kept to a maximum of fifty (50) ~~thirty (30)~~ pages. Bidders are strongly encouraged to limit the length of their Proposals while adequately covering the Proposal requirements.

Bidders who believe that supporting documentation or explanation beyond the fifty (50) ~~thirty (30)~~-page limit is needed may attach such information in appendices to their Proposal.

### NOTICE OF INTENT TO BID REQUIREMENT

Bidders are **required** to submit a "Notice of Intent to Bid" to the Energy Commission by the date and to the address listed in Section I. The Notice may also be faxed to the Energy Commission's Contracts Office at (916) 654-4423 before the deadline. This Notice ~~is binding on prospective Bidders, and~~ will be used to aid the Energy Commission in determining the resources needed for evaluation of proposals that are subsequently submitted. All Notices of Intent to Bid received by the Energy Commission will be kept confidential until the Notice of Proposed Awards is posted.

Bidders that fail to submit a Notice of Intent to Bid by the specified deadline are precluded from submitting a proposal for consideration under this solicitation. A proposal submitted by the Bidder will be rejected, and will not be scored or considered for funding.

### REQUIRED FORMAT FOR A PROPOSAL

All Proposals submitted under this solicitation must be typed or printed using a standard 11-point font, be singled-spaced, and have a blank line between paragraphs. Pages must be numbered and printed back-to-back and sections must be titled. Spiral or comb binding is preferred; binders are discouraged.

### NUMBER OF COPIES

Bidders must submit the original and five (5) copies of the Administrative Response (Volume 1) and Technical Program and Cost Proposal (Volume 2).

## IV. PROPOSAL FORMAT AND REQUIRED DOCUMENTS, CONTINUED

Bidders must also submit electronic files of the Proposal on CD-ROM diskette along with the paper submittal. Electronic files must be in Microsoft Word XP (.doc format) and Office Suite formats. Electronic files submitted via e-mail will not be accepted.

### PACKAGING AND LABELING

The original and copies of each volume must be labeled "Program Opportunity Notice #400-09-401," and include the title of the Proposal and the appropriate volume number:

Volume 1 – Administrative Response

Volume 2 – Technical Program [and Cost](#) Proposal

Deliver your Proposal in a sealed package with the following label:

Person's Name, Phone #	
Bidder's Name	
Street Address	
City, State, Zip Code	
FAX #	
	PON 400-09-401
	Contracts Office, MS-18
	California Energy Commission
	1516 Ninth Street, 1st Floor
	Sacramento, California 95814

### DELIVERY

A Bidder may deliver a Proposal by U.S. Mail, courier service, or in person.

Proposals must be delivered no later than 5:00 p.m. to the Energy Commission Contracts Office during normal business hours and prior to the date and time specified in this PON. In accordance with Public Contract Code 10344, proposals received after the specified date and time are considered late and will not be accepted. There are no exceptions to this law. Postmark dates of mailing, e-mail and facsimile (FAX) transmissions are not acceptable in whole or in part, under any circumstances.



## IV. PROPOSAL FORMAT AND REQUIRED DOCUMENTS, CONTINUED

### ORGANIZATION

Organize Your Proposal As Follows:

#### VOLUME 1, Administrative Response

A.	Cover Letter	
B.	Table of Contents	
C.	Contractor Status Form	Attachment 1
D.	Darfur Contracting Act	Attachment 2
E.	Contractor Certification Clauses	Attachment 3
<del>F.</del>	<del>Mandatory Notice of Intent to Bid</del>	<del>Attachment 5</del>
G.	Executive Summary	Attachment 6
H.	National Environmental <del>Protection</del> <u>Policy</u> Act (NEPA) Compliance/ <u>Certification</u> Form	Attachment 7
<del>I.</del>	<del>Davis Bacon Act Prevailing Wage Q&amp;A Form</del>	<del>Attachment 8</del>
<del>J.</del>	<del>California Law Prevailing Wage Requirements Form</del>	<del>Attachment 9</del>
K.	Bidders Authorizing Resolution <del>Sample</del> <u>Letter(s of Commitment (if applicable))</u>	Attachment 10
L.	Auditing Consideration	Attachment 11
M.	Financial Management Information Form	Attachment 12
N.	California Environmental Quality Act (CEQA) Compliance Form	Attachment 13
<del>O.</del>	<del>California Law Prevailing Wage Requirements</del>	<del>Attachment 14</del>
<del>P.</del>	<del>Reporting and Tracking Spreadsheets</del>	<del>Attachment 15-14</del>
<del>Q.</del>	<del>National Historic Preservation Act (NHPA) Form</del>	<del>Attachment 16-15</del>

PLEASE NOTE: ATTACHMENTS 4, 5, 8, 9, 14, 15, 16, AND 19 ARE FOR INFORMATIONAL PURPOSES, AND ARE NOT REQUIRED TO BE SUBMITTED WITH PROPOSALS.

#### VOLUME 2, Technical Program Proposal and Cost Information (see Section III for requirements)

<u>A.</u>	<u>Table of Contents</u>	
<u>B.</u>	<u>Program Title</u>	
<u>C.</u>	<u>Program Executive Summary</u>	
D.	Program Design	
E.	Workforce Development and Job Creation	
F.	Energy, Peak Demand and GHG Emissions Reduction	
G.	Economically Disadvantaged Areas	
H.	Time Criticality	
I.	Program Transparency and Reporting	
J.	Program Team Qualifications and Experience	
K.	Scope of Work and Deliverables	
<del>L.</del>	<del>Description of Previous Programs</del>	
<u>L.</u>	Budget Forms (Exhibit A-1, Exhibit B and Exhibit F)	<u>Attachment 17</u>
<u>M.</u>	<u>References</u>	<u>Attachment 18</u>



## V. Administrative Information

This Section V, Administrative Information contains information that applies to this PON and normally applies to Energy Commission solicitations. The following Section VI ARRA Specific Important Information contains information that applies to this PON that is unique to ARRA funding.

### PON DEFINED

The competitive method used for this procurement of services is a Program Opportunity Notice (PON). A Proposal submitted in response to this PON will be scored and ranked based on the Evaluation Criteria. Every Proposal must establish in writing the Bidder's ability to perform the PON tasks.

### EQUIPMENT PURCHASES

The Bidder must include any proposed equipment purchases in the budget. The Energy Commission recommends that you use your own funds as well as other sources of funds which would be considered leverage funds to procure and/or build equipment. [See the definition of "Equipment" in Section I Key Words and Definitions.](#)

Equipment purchased with Federal funds is subject to the equipment provisions of Title 10 Code of Federal Regulations (CFR) Part 600: DOE Financial Assistance Regulations (<http://ecfr.gpoaccess.gov>). If State funds are used to purchase or build equipment, the State retains ownership interest in the equipment.

### CONFIDENTIAL SUBMITTALS WILL NOT BE ACCEPTED

The Energy Commission will not accept or retain any proposals that are marked confidential in their entirety or seek to have any part of the proposal treated as confidential.

### INFORMATION CONSIDERED CONFIDENTIAL

Consistent with its confidentiality regulations, and the California Public Records Act (Government Code Section 6250 et. seq), the Energy Commission generally will grant confidential treatment for information that will be an Agreement deliverable that is information typically held in confidence. Examples include:

- Information that is patent pending (until a patent has been approved), including patent application numbers
- Technical trade secrets (e.g., detailed technical drawings)
- Marketing/business trade secrets (e.g., energy use data for an individual commercial or industrial facility, pending strategic partnerships with manufacturers)
- Economic/financial trade secrets (e.g., income tax records).

## **V. ADMINISTRATIVE INFORMATION, CONTINUED**

Conversely, the Energy Commission will **not** allow confidential treatment for certain other types of information. Bidders are cautioned against seeking confidentiality for the following types of information:

- Project descriptions/scope of work (including task descriptions, schedule of deliverables and due dates).
- Proposed project budgets (ARRA and leverage fund), including labor rates, overhead, direct labor, other direct costs, profit, and the like.
- Disabled Veterans Business Enterprise information.
- Names of employees, subcontractors and leverage fund participants.
- Test plans and reports.
- Progress reports.
- Final reports.

The Energy Commission may allow technical and business trade secrets to be reported in separate confidential addenda to test reports and final reports.

### **TREATMENT OF CONFIDENTIAL INFORMATION**

Other than providing a list of the proposals that passed and failed, the entire evaluation process from receipt of proposals to the posting of the Notice of Proposed Award is confidential. However, proposals and all submittals will become public records after the Commission completes the evaluation and/or scoring process and the Notice of Proposed Awards is posted or the PON is cancelled.

After the posting of the Notice of Proposed Awards, confidential materials submitted by unsuccessful Bidders will be destroyed and/or returned. The Commission will not retain confidential submittals from unsuccessful Bidders.

Confidential materials submitted by successful Bidders will be kept confidential, pending incorporation of confidentiality determination as part of the subsequent ARRA Agreement as appropriate.

A complete application for confidentiality pursuant to Title 20, California Code of Regulations, sections 2505 may be required prior to DGS approval of the Agreement at the option of the Commission. These confidentiality specifications and procedures are issued in accordance with Title 20, California Code of Regulations, section 2501 et seq.

### **TREATMENT OF PROPOSALS**

All proposals submitted will become public records and available for inspection after the Energy Commission completes the evaluation and/or scoring process and the Notice of Proposed Awards is posted or the PON is cancelled. Bidders who want any work examples they submitted with their proposals returned to them shall make this request and provide either sufficient postage, or a Courier Charge Code to fund the cost of returning the examples.

## V. ADMINISTRATIVE INFORMATION, CONTINUED

### INTERPRETATION

Nothing in this solicitation shall be construed to abridge the powers or authority of the energy Commission or any Energy Commission-designated Committee as specified in Division 15 of the Public Resources Code, commencing with Section 25000, or Division 2 of Title 20 of the California Code of Regulations, commencing with Section 1001.

### PON CANCELLATION AND AMENDMENT

If it is in the State's best interest, the Energy Commission reserves the right to do any of the following:

- Cancel this solicitation;
- Revise the amount of funds available under this solicitation;
- Amend this solicitation as needed; ~~or~~
- Reject any or all Proposals received in response to this solicitation;
- Make no awards under any one or more solicitations; and
- ~~or to a~~ Award all funds under one or more solicitations; or to award all funds to one Bidder.

If the solicitation is amended, the Energy Commission will send an addendum to all parties who requested the solicitation and will also post it on the Energy Commission's website [www.energy.ca.gov/contracts](http://www.energy.ca.gov/contracts) and Department of General Services' website [www.cscr.dgs.ca.gov/cscr](http://www.cscr.dgs.ca.gov/cscr).

### ERRORS

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in this solicitation, the Bidder shall immediately notify the Commission of such error in writing and request modification or clarification of the solicitation. Modifications or clarifications will be given by written notice to all parties who requested the solicitation, without divulging the source of the request for clarification. The Commission shall not be responsible for failure to correct errors.

### USE AND DISCLOSURE OF INFORMATION AND REPORTS

The Energy Commission or its authorized agents may use any information or records submitted to the Energy Commission or obtained as part of any audit pursuant to this solicitation to determine eligibility and compliance with this solicitation, applicable law, or a particular agreement, to evaluate the pertinent program or program elements, and to prepare necessary reports as required by law. The information and records include, but are not limited to, applications for funding, invoices for award payments, and any documentation submitted in support of said applications or invoices.

Information and records submitted pursuant to this solicitation will be disclosed to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes. The information and records may also be disclosed to the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.). Personal information such as taxpayer identification or social security numbers will not be disclosed to the public.

## V. ADMINISTRATIVE INFORMATION, CONTINUED

Information concerning the identity of recipients and the amount or payment of awards is public information and will be disclosed pursuant to the California Public Records Act. This information, along with other public information describing funding recipients, may be disclosed to members of the public to educate them and encourage further program participation. The information may be disclosed through the Energy Commission's website or other means, as the Energy Commission deems appropriate.

### GOVERNING BOARD DOCUMENTATION

Prior to the execution of any agreement by a city, ~~or~~ county, or joint powers authority, all city, ~~and~~ county, and joint powers authority bidders must provide an original signed resolution (or copy with original signed certification), order, motion, or ordinance of the local governing body that by law has authority to enter into the agreement. This document must authorize the Bidder ~~recipient~~ to enter into the agreement and designate an authorized representative to execute all necessary agreements to implement and carry out the purposes of the award. If an eligible applicant is applying under a collaborative partnership involving several local governments, the governing board resolution or order must state the applicant is authorizing the collaborative lead/prime bidder to apply for and receive funding on its behalf. The recipient cannot begin Energy Commission-funded work until the resolution, order, motion, or ordinance has been fully executed and submitted to the Energy Commission and the Energy Commission has approved the ~~funding award~~ agreement. The Energy Commission reserves the right to withdraw a proposed award if these governing board resolutions are not received by ~~January 18~~ March 15, 2010.

In addition, whenever a local government is serving as the collaborative lead/prime bidder, on behalf of a group of local governments, that local government shall provide documentation that it is authorized by its governing board to submit a proposal on behalf of the other collaborative partners in the proposed program. Proposals should also include a ~~letters~~ of commitment from each collaborative partner that describes their role in the proposed program and, ~~in the case of local governments~~, the intent to provide the governing board resolution described in the first paragraph above by no later than ~~January 18~~ March 15, 2010, if the proposal is selected for funding and included in the Notice of Proposed Awards.

### COST OF DEVELOPING A PROPOSAL

The Bidder is responsible for the cost of developing a Proposal, and this cost cannot be charged to the State.

### IMMATERIAL DEFECT

The Energy Commission may waive any immaterial defect or deviation contained in a Bidder's Proposal. The Energy Commission's waiver shall in no way modify the Proposal or excuse the successful Bidder from full compliance.

### **MODIFICATION OR WITHDRAWAL OF A PROPOSAL**

A Bidder may, by letter to the Contact Person at the Energy Commission, withdraw or modify a submitted Proposal before the deadline to submit Proposals. Proposals cannot be changed after that date and time. A Proposal cannot be “timed” to expire on a specific date. For example, a statement such as the following is non-responsive to this solicitation: “This Proposal and the cost estimate are valid for 60 days.”

### **AGREEMENT AWARD**

After Stage Two scoring and the Energy Commission decision on SEP portfolio funding, the Notice of Proposed Awards (NOPA) will be posted for five (5) working days at the Commission’s headquarters in Sacramento, and on the Commission’s and the DGS’ web site. In addition, each Bidder will be mailed a copy of the NOPA.

Upon completion of the five (5)-day notice period, a funding award package will be prepared and sent to each successful Bidder. The award package will include at a minimum the following:

1. An agreement that includes the terms and conditions applicable to the award, and signature blocks for the recipient and Energy Commission.
2. A detailed description of project activities.
3. A schedule of project activities and corresponding due dates.
4. An itemized budget for the project that identifies all related costs and expenses, including leveraging funding and sources.

The Commission will not consider any substantive changes to the Agreement “terms and conditions” contained in this solicitation. If, for any reason, a successful Bidder does not sign the Agreement documents within time allotted, the Commission may eliminate that Proposal from its award list and select the next highest ranked Proposal for funding. The Commission will consider approval of each Agreement at a publicly noticed Commission Business Meeting. The Commission at that time may approve more than one Agreement.

### **UNSUCCESSFUL PROPOSALS**

After the NOPA is posted, each unsuccessful Bidder may request a debriefing meeting with the Commission Contract Office. The debriefing meeting is an opportunity for an unsuccessful Bidder to learn why their particular proposal was not successful and may provide insight to improving proposal preparation for future solicitations.

### **AWARD PAYMENTS AND INVOICING**

Award payments shall be subject to the following conditions:

1. Payments will be made on a reimbursement basis, after the recipient submits the appropriate invoice(s) to the Energy commission. (If a bidder is receiving funds from other funding source(s), total funds requested from all sources shall not exceed the total cost of the project.

## **V. ADMINISTRATIVE INFORMATION, CONTINUED**

2. Ten percent (10%) of the agreement amount will be withheld as retention until the final report is received from the bidder and the Energy Commission's Project Manager determines the Project has been satisfactorily completed.
3. All invoices must be submitted with a completed payment request form, as specified by the Energy Commission, and accompanied by all backup documentation. The backup documentation must include copies of paid invoices and receipts detailing the specific equipment purchased, the services produced, and personnel time records where appropriate.
4. Prior to final payment, the Energy commission reserves the right to verify that the amount of the agreement, when combined with all other sources of funding for the project, including any utility rebates or incentives, does not exceed 100% of the total project cost.
5. Energy Commission staff must approve all invoices. Such approval is subject to the recipient's acceptable submittal of the required progress reports, other specified products, and the appropriateness of the invoiced expenses under the agreement.

### **IMPORTANT ADMINISTRATIVE DETAILS**

#### **California Environmental Quality Act (CEQA)**

Some of the Programs selected for funding may meet the definition of a "project" for purposes of CEQA (see Public Resources Code section 21000 et seq.) If this occurs, the Energy Commission's Legal Staff will review the Program to determine whether an exemption applies that would prevent further actions under CEQA. If no exemption applies, certain CEQA requirements (e.g., preparation of a negative declaration or environmental impact report) will have to be met prior to the Energy Commission approving the agreement. The Bidder will have to pay the cost for these activities. (Please refer to Title 20, California Code of Regulations, Chapter 6, Article 1, including section 2308.)

#### **Darfur Contracting Act of 2008**

Effective January 1, 2009, all Requests for Proposals (PON) must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et seq.*; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency. (See # 1 on Attachment 2).



## **V. ADMINISTRATIVE INFORMATION, CONTINUED**

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on Attachment 2).

### **~~IMMATERIAL DEFECT~~**

~~The Energy Commission may waive any immaterial defect or deviation contained in a Bidder's proposal. The Energy Commission's waiver shall in no way modify the proposal or excuse the successful Bidder from full compliance.~~

### **BIDDERS' ADMONISHMENT**

This PON contains the instructions governing the requirements for a firm quotation to be submitted by interested Bidders, the format in which the technical information is to be submitted, the material to be included, the requirements which must be met to be eligible for consideration, and Bidder responsibilities. Bidders must take the responsibility to carefully read the entire PON, ask appropriate questions in a timely manner, submit all required responses in a complete manner by the required date and time, make sure that all procedures and requirements of the PON are followed and appropriately addressed, and carefully reread the entire PON before submitting a proposal.

### **AGREEMENT REQUIREMENTS**

The content of this PON shall be incorporated by reference into the final contract. See the sample Agreement terms and conditions included in this PON.

### **No Contract Until Signed & Approved**

No agreement between the Commission and the successful Bidder is in effect until the agreement is signed by the Contractor, approved at a Commission Business Meeting, and approved by the Department of General Services, Legal Office, if required.

### **Conditions or Limits on Awards**

The Commission reserves the right to condition, modify or otherwise limit any and all ARRA funding awards made pursuant to this PON.

### **Audit**

The Bureau of State Audits may audit an Agreement awarded under this PON up to a period of three years after the final payment or termination of the Agreement.

### **Subcontractors**

The Bidder must submit the information required in the Project Team Section of the proposal for all Subcontractors as well as the budget forms. The Contractor is responsible for the quality of all subcontractor work, and may only replace Key Subcontractors as specified under the Agreement Terms and Conditions.

### **Contract Amendment**

The contract executed as a result of this PON will be able to be amended by mutual consent of the Commission and the Contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding.



## V. ADMINISTRATIVE INFORMATION, CONTINUED

### NONDISCRIMINATION CERTIFICATION

Any bid, proposal, or offer for a contract which is submitted by a contractor who has been decertified from contracting with the State by the Department of Fair Employment and Housing (DFEH), shall be deemed to be non-responsive. Refer to the California Notice Register for a list of decertified contractors. (Published by the Office of Administrative Law and available through the Office of State Printing).

### GROUND TO REJECT A PROPOSAL

#### A Proposal shall be rejected if:

- It is received after the exact time and date set for receipt of Proposal's pursuant to Public Contract Code, Section 10344.
- A Notice of Intent to Bid was not previously filed with the Energy Commission.
- It is lacking a properly executed Certification Clauses.
- It is lacking a properly executed Darfur Contracting Act.
- It contains false or intentionally misleading statements or references which do not support an attribute or condition contended by the Bidder.
- ~~The Proposal~~ It is intended to erroneously and fallaciously mislead the State in its evaluation of the Proposal and the attribute, condition, or capability is a requirement of this PON.
- There is a conflict of interest as contained in Public Contract Code Sections 10410-10412 and/or 10365.5.
- It contains confidential information, or includes any material marked as confidential.
- ~~Does not comply with the Single Audit Act and OMB Circular A-133~~
- It receives a score of zero (0) on one or more of following evaluation criteria: (1) Eligible Improvements, (2) Loading Order, or (3) Home Energy Ratings, Energy Audits, and Building Commissioning.

#### A Proposal may be rejected if:

- It is not prepared in the mandatory format described.
- It is unsigned.
- The firm or individual has submitted multiple proposals for each task.
- It does not literally comply or contains caveats that conflict with the PON and the variation or deviation is not material, or it is otherwise non-responsive.

### PROTEST PROCEDURES

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, contracts will not be awarded until either the protest is withdrawn, or the Commission cancels the PON, or the Department of General Services decides the matter.

Please note the following:

- Protests are limited to the grounds contained in the California Public Contract Code Section 10345.

## **V. ADMINISTRATIVE INFORMATION, CONTINUED**

- During the five working days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the DGS Legal Office and the Commission Contracts Office.
- Within five days after filing the protest, the protesting Bidder must file with the DGS and the Commission Contracts Office a full and complete written statement specifying the grounds for the protest.
- If the protest is not withdrawn or the solicitation is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the Commission for the DGS hearing officer consideration.

## VI. ARRA Specific Important Information

This section provides information that is specific to this ARRA funded solicitation. Most of these paragraphs have been taken from the Energy Commissions State Energy Program Guidelines adopted September 30, 2009.

### LEVERAGE FUNDING

Leverage funding may be separate funding, rebates (from utilities or other sources), tax credits, in-kind services, or any combination thereof. In-kind contributions include, but are not limited to, donated labor hours, equipment, facilities, property, and arrangements with partners, including utilities and others, to contribute to the goals and purpose of the program. Separate funding may be contributed by the Bidder, public or private partners or investors, or investment in retrofits from the property owners participating in the proposed program.

Prior investments in the work related to the Bidder's proposed program do not qualify as leverage funding. If the Bidder is applying for funds under more than one SEP program RFP using the same leverage funding, the Bidder shall provide the percentage of this leverage funding that is being identified for each program. The Bidder shall explain how this percentage will change for each program if the Bidder is not awarded SEP funding for its proposals for the other programs, where applicable.

Equipment, facilities and most property can count as leverage funding as long as they are fully dedicated to the program for the time the equipment, facility or property is required by the Agreement, and as long as the value of the contribution is based on documented market values or book values and is depreciated or amortized over the term of the program using standard accounting principles. Equipment, facilities and property that do not qualify as Leverage funds include standard office supplies and other property or equipment that are part of the Bidder's normal business activity (including desks, typewriters, telephones, computers, and software).

The Energy Commission reserves the right to review and approve or disapprove the types and amounts of leverage funding credited to the proposed program.

Budgets shall show leverage funding contributions at the task level and for each source. Utility rebates and in-kind services that contribute to achievement of the proposed program, for example, must be clearly identified.

Leverage funding contributions must be spent concurrently with SEP funds, and only on the tasks described in the proposal.

SEP funds cannot be spent until the Department of General Services, Office of Legal Services (DGS-OLS) approves the Agreement, which has already been signed by both the Contractor and the Energy Commission. Leverage funds may be spent between the date the Energy Commission approves the Agreement and the date the Agreement is approved by DGS-OLS subject to prior written approval by the Commission Contract Manager and at the contractor's own risk.

The loss of leverage funding during the Agreement is a reason for the Energy Commission to hold a Critical Project Review and may result in the termination or amendment of the Agreement.

## VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED

### PERIOD OF PERFORMANCE

Pursuant to the federal SEP guidelines, all activities that are awarded funds must be completed and funds must be expended by March 31, 2012.

A bidder may not begin work pursuant to this PON prior to the Energy Commission's approval and execution of the bidder's agreement. Project expenses incurred prior to the approval and execution of an agreement are not eligible for reimbursement under the agreement.

### TRANSPARENCY AND REPORTING

The American Recovery and Reinvestment Act have made it clear that every taxpayer dollar spent on our economic recovery must be subject to unprecedented levels of transparency and accountability.<sup>11</sup> The federal government has set the following accountability and transparency objectives:

- Funds are awarded and distributed in a prompt, fair, and reasonable manner;
- The recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner;
- Funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated;
- Projects funded under this Act avoid unnecessary delays and cost overruns; and
- Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

Recipients of funding appropriated by the Act shall comply with requirements of applicable Federal, State, and local laws, regulations, DOE policy and guidance<sup>12</sup>, and instructions in Funding Opportunity Announcement (FOA) DE-FOA-0000052<sup>13</sup>,. Recipients shall ensure that the requirements of applicable Federal, State and local laws, regulations, DOE policy and guidance, and instructions in FOA DE-FOA-0000052 are communicated to sub-recipients to the extent necessary to ensure the recipient's compliance with the requirements.

DOE encourages a high degree of leveraging to extend the impact of the program, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related OMB Guidance.

Details on reporting requirements can be found in the OMB reporting requirements listed in the Reference Documents section.

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<sup>11</sup> Information regarding accountability and transparency can be found at <http://www.recovery.gov/?q=content/accountability-and-transparency> and [http://www.inspectorgeneral.ca.gov/General\\_Information.html](http://www.inspectorgeneral.ca.gov/General_Information.html).

<sup>12</sup> <http://www.recovery.gov/sites/default/files/m09-15.pdf>

<sup>13</sup> [http://www.energy.ca.gov/recovery/documents/SEP\\_Recovery\\_Act\\_Guidance\\_DE-FOA-00000521.pdf](http://www.energy.ca.gov/recovery/documents/SEP_Recovery_Act_Guidance_DE-FOA-00000521.pdf)

## VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED

### ~~USE AND DISCLOSURE OF INFORMATION AND REPORTS~~

~~The Energy Commission, other state agencies, the federal government, or their respective authorized agents may use any information or records submitted to the Energy Commission or obtained as part of any audit pursuant to this solicitation these *Guidelines* to determine eligibility and compliance with this solicitation, these *Guidelines*, applicable law, or a particular funding award agreement, to evaluate the pertinent program or program elements, and to prepare necessary reports as required by law. The information and records include, but are not limited to, applications for funding, invoices for award payments, and any documentation submitted in support of said applications or invoices.~~

~~Information and records submitted pursuant to the *Guidelines* will be disclosed to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes. This information and records may also be disclosed to the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.). Personal information, such as taxpayer identification or social security numbers, will not be disclosed to the public.~~

~~Applicants should note that ARRA funds are subject to information disclosure requirements through the federal Office of Management and Budget as well as other federal agencies to ensure transparency. Information concerning the identity of recipients and the amount of payment of awards is public information, and will be disclosed as part of the ARRA transparency requirements and in accordance with the California Public Records Act. This information, along with other public information describing the funding recipients, may be disclosed to members of the public to educate them and encourage further program participation. The information may be disclosed through the Energy Commissions website, another state agency's website, a federal government website, or through other means.~~

~~If, as part of any audit, the Energy Commission requires a recipient to provide copies of records that the recipient believes contain proprietary information entitled to protection under the California Public Records Act or other law, the recipient may request that such records be designated confidential pursuant to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.~~

### ~~PREVAILING WAGE~~

~~Section 1606 of ARRA broadly applies the Davis-Bacon Act labor standards requirements to ARRA-funded construction projects by specifying that:~~

## VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED

~~Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code [Davis-Bacon Act].~~

~~Bidders in response to this solicitation should be advised that whenever proposed program funding is used for construction where the construction is completed by contractors/subcontractors who employ laborers and/or mechanics specified by the U.S. Department of Labor (DOL), those laborers and/or mechanics must be paid at prevailing wage rates. DOL (and the California Department of Industrial Relations (DIR)) maintains a list of the covered trades and the applicable prevailing wage for each trade.<sup>14</sup>~~

~~Bidders are encouraged to determine if the installation of energy efficiency measures under their proposed programs are subject to Davis-Bacon and/or the state law prevailing wage requirements as soon as possible. If the Bidder has determined that the work required under the Bidder's proposed program is not required to comply with the Davis-Bacon Act and/or state law prevailing wage laws, the Bidder must explain how the Bidder made that determination and whether or not the Bidder has contacted DOL (or DIR) to confirm that determination.~~

~~If the Bidder has not received a determination from DOL and DIR that installation of energy improvement retrofits is not subject to Davis-Bacon requirements and state law prevailing wage requirements, your budget must provide for the payment of prevailing wages. If the Bidder's proposed program identifies construction work to be completed by contractors or subcontractors employing laborers and/or mechanics subject to Davis-Bacon Act or state law prevailing wage requirements, the budget for the proposed program must provide for the payment of prevailing wages to those laborers and mechanics. Please indicate whether the proposed budget includes prevailing wage.~~

~~If the Bidder's proposed program identifies construction work to be completed by contractors or subcontractors employing laborers and/or mechanics subject to Davis-Bacon Act or state law prevailing wage requirements, the agreement between the Energy Commission and the Bidder will include provisions for complying with the prevailing wage requirements, including provisions for the payment of prevailing wage, keeping payroll records, and complying with working hour requirements and apprenticeship obligations. See the Special Condition (Attachment 9) regarding Prevailing Wage, and the accompanying forms (Attachment 8) for more information.~~

~~Attachment 8 provides helpful information on the Davis-Bacon Act and the type of program work which may not be subject to the payment of prevailing wage under~~

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<sup>14</sup> <http://www.gpo.gov/davisbacon/allstates.html>.

## VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED

~~federal law. Attachment 14 provides helpful information on the state law prevailing wage requirements.~~

### **~~California Environmental Quality Act (CEQA)~~**

~~Some of the Programs selected for funding may meet the definition of a “project” for purposes of CEQA (see Public Resources Code section 21000 et seq.) If this occurs, the Energy Commission’s Legal Staff will review the Program to determine whether an exemption applies that would prevent further actions under CEQA. If no exemption applies, certain CEQA requirements (e.g., preparation of a negative declaration or environmental impact report) will have to be met prior to the Energy Commission approving the agreement. The Bidder will have to pay the cost for these activities. (Please refer to Title 20, California Code of Regulations, Chapter 6, Article 1, including section 2308.)~~

### **~~INFORMATION ON COMPLYING WITH SINGLE AUDIT ACT~~**

~~If you are a public entity expecting to receive and use any federal funds, you must comply with the Single Audit Act and Office of Management and Budget (OMB) Circular A-133.~~

- ~~• [How to Comply with the Single Audit Act \(PDF file\)](#)~~

## **TRACKING AND REPORTING**

Though recipients are encouraged to use SEP funding in conjunction with other funding, tracking and reporting of SEP funding must be separate to meet federal reporting requirements. The terms and conditions of the award will specify the format, tools and information required for reporting programmatic and energy metrics as specified by the federal government. Attachment 14, California ARRA and Accountability Tool (CAAT) worksheet lists the items that could be considered as tracking and reporting. This worksheet is provided by way of example and is NOT exhaustive of the elements or the type of information that could be considered as part of tracking and reporting.

## **PROJECT EXTENSIONS**

Projects funded pursuant to this solicitation must be completed and funds must be expended by the date specified in the agreement. If the Commission determines that insufficient progress is being made toward implementing the project, and that there is significant risk that all funds will not be expended by the date specified in the agreement, the agreement will be terminated or amended and, if time allows, the funds will be reallocated as specified in “Reallocation of Funds.”

If a project or portion of a project is not started by the date specified in the agreement due to extenuating circumstances outside the control of the recipient, the recipient may make a written request to extend the date of project completion.

The ARRA Committee may extend the project completion date at its discretion, and will consider doing so only if the project meets all of the following criteria and procedures:



## **VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED**

1. In no event may the date that the project or the portion of the project is started by extended past the required date specified under ARRA or state law.
2. The bidder must show it has taken actions to mitigate the project delay.
3. The bidder must demonstrate that there are no other known obstacles in the way of completing the project on time.
4. The bidder must show it has incurred a legal obligation such as a contract or purchase order in an effort to complete the project as originally planned.
5. The requested extension would otherwise comply with all of the eligibility requirements of the SEP Guidelines and this solicitation.

### **PROJECT CHANGES**

Changes to a project's work statement, including changes to specific line items in the project budget, may be approved by the ARRA Committee under the following conditions:

1. Such changes do not substantially alter the original scope or purpose of the project as proposed in the application and as approved by the ARRA Committee and/or full Energy Commission.
2. Such changes do not substantially reduce the value of the project. Unless otherwise indicated in the agreement, all changes are subject to necessary approval by the ARRA Committee. The recipient shall notify Energy Commission staff in writing and obtain either ARRA Committee or full Energy Committee approval in advance of implementing any such changes.

### **REALLOCATION OF FUNDS**

Funding may be reallocated as necessary to best achieve the overall goals of ARRA and to comply with state law and policy. Funds identified in an RFP may be reallocated and used for another ARRA purpose only after the RFP has closed and awards have been made, or the RFP has been cancelled. The Energy Commission may reallocate funds in an agreement if it determines that insufficient progress is being made towards implementing the project, and that there is a significant risk that all funds in the agreement will not be expended by the date specified. The Energy Commission may terminate or amend an agreement to accomplish this reallocation.

### **PROGRAM EVALUATION, PROJECT MONITORING, AND VERIFICATION**

Proper stewardship surrounding the administration, reporting, accounting and transparency of ARRA funds is essential in the Energy Commission's administration of the ARRA SEP. Federal and state agencies, the Energy Commission, or their respective agents will audit a sample of funding recipients to verify compliance with the ARRA reporting requirements, the *Guidelines* and the solicitation document, and to measure and verify appropriate use and expenditure of ARRA funds, as well as validate electricity and fuel use reductions. In addition, the Energy Commission will monitor the progress of ~~funding-award~~ agreements and evaluate the effectiveness of particular projects.

## **VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED**

The Energy Commission may audit funding recipients to verify compliance with the Guidelines and this solicitation, and to measure and verify appropriate use and expenditure of ARRA funds, as well as to validate electricity and fuel usage reductions. In addition, the Energy Commission will monitor the progress of agreements and evaluate the effectiveness of projects.

Upon written request from the Energy Commission, a funding recipient shall provide detailed documentation of all expenses, allow the Energy Commission or its agent access to facilities and records, and allow the Energy Commission or its agent to collect data needed to measure and verify electricity and fuel reductions (this may include but is not limited to utility bills, metering data, facility equipment surveys, information on operational practices, and site occupancy levels). Further, if requested, the recipient must provide the Energy Commission or its agent associated data from a period prior to the start of the project as necessary to establish baseline energy and/or fuel use. In addition, the recipient must allow the Energy Commission or any other agency of the State, upon written request, to have reasonable access to and the right to inspect all records that pertain to the project and to the recipients' energy use during the term of the agreement and for a period of three years after the ending term of the agreement.

Further, the recipient must agree to incorporate an audit of this project within any scheduled audits, when specifically requested by the Energy Commission or the State. The recipient must agree to include a similar right to audit in any subcontract with sub-funding awardees. The recipient shall retain all project records (including financial records, progress reports, payment requests, and electricity and fuel reduction documentation) for a minimum of three years after the project has been formally concluded or final payment is received, whichever is later, unless otherwise specified in the agreement.

### **ENFORCEMENT ACTION**

#### **1. Recovery of Overpayment**

The ARRA Committee, with the concurrence of the Energy Commission, may direct the Energy Commission's Office of Chief Counsel to commence formal legal action against any recipient or former recipient to recover any portion of a funding award the Committee determines the recipient or former recipient was not otherwise entitled to receive.

#### **2. Fraud and Misrepresentation**

The Energy Commission or the ARRA Committee may initiate an investigation of any recipient which it has reason to believe may have misstated, falsified, or misrepresented information in applying for a funding award, invoicing for a funding award payment, or in reporting any information as required by ~~these Guidelines~~ [this PON](#). Based on the results of the investigation, the Energy Commission or ARRA Committee may take any action it deems appropriate, including, but not limited to, cancellation of the funding award, recovery of any overpayment, and recommending the initiation of an Attorney General investigation and prosecution pursuant to Government Code sections 12650, et seq., or other provisions of law. The State of California, through the Attorney General's

## **VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED**

Office or other state agency, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of SEP funds as appropriate.

### **3. Federal Action**

The Federal government, through various departments, including, but not limited to, DOE and the U.S. Department of Justice, may independently investigate any recipient and bring actions for fraud, misrepresentation, or misuse of SEP funds as appropriate.

### **USE AND DISCLOSURE OF INFORMATION AND REPORTS**

The Energy Commission, other state agencies, the federal government, or their respective authorized agents may use any information or records submitted to the Energy Commission or obtained as part of any audit pursuant to this PON to determine eligibility and compliance with this PON, applicable law, or a particular funding award agreement, to evaluate the pertinent program or program elements, and to prepare necessary reports as required by law. The information and records include, but are not limited to, applications for funding, invoices for award payments, and any documentation submitted in support of said applications or invoices.

Information and records submitted pursuant to the PON will be disclosed to other governmental entities and policing authorities for civil and criminal investigation and enforcement purposes. This information and records may also be disclosed to the public pursuant to the California Public Records Act (Government Code Section 6250, et seq.). Personal information, such as taxpayer identification or social security numbers, will not be disclosed to the public.

Applicants should note that ARRA funds are subject to information disclosure requirements through the federal Office of Management and Budget as well as other federal agencies to ensure transparency. Information concerning the identity of recipients and the amount of payment of awards is public information, and will be disclosed as part of the ARRA transparency requirements and in accordance with the California Public Records Act. This information, along with other public information describing the funding recipients, may be disclosed to members of the public to educate them and encourage further program participation. The information may be disclosed through the Energy Commissions website, another state agency's website, a federal government website, or through other means.

If, as part of any audit, the Energy Commission requires a recipient to provide copies of records that the recipient believes contain proprietary information entitled to protection under the California Public Records Act or other law, the recipient may request that such records be designated confidential pursuant to the Energy Commission's regulations for confidential designation, Title 20, California Code of Regulations, Section 2505.

### **CRITICAL PROGRAM REVIEWS**

The CCM will conduct a Critical Program Reviews (CPR) for each agreement. The first CPR will be scheduled to occur within the first six months of the agreement to determine the level of performance and the anticipated ability of the contractor to achieve the most

## VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED

benefit within the approximately two-year time available between contract awards and the ARRA SEP project implementation deadline.

### **PREVAILING WAGE**

Section 1606 of ARRA broadly applies the Davis-Bacon Act labor standards requirements to ARRA-funded construction projects by specifying that:

Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code [Davis-Bacon Act].

Bidders in response to this solicitation should be advised that whenever proposed program funding is used for construction where the construction is completed by contractors/subcontractors who employ laborers and/or mechanics specified by the U.S. Department of Labor (DOL), those laborers and/or mechanics must be paid at prevailing wage rates. DOL (and the California Department of Industrial Relations (DIR)) maintains a list of the covered trades and the applicable prevailing wage for each trade.<sup>15</sup>

Bidders are encouraged to determine if the installation of energy efficiency measures under their proposed programs are subject to Davis-Bacon and/or the state law prevailing wage requirements as soon as possible. If the Bidder has determined that the work required under the Bidder's proposed program is not required to comply with the Davis-Bacon Act and/or state law prevailing wage laws, the Bidder must explain how the Bidder made that determination and whether or not the Bidder has contacted DOL (or DIR) to confirm that determination, and whether DOL and DIR have provided the bidder with written determinations.

If the Bidder has not received a determination from DOL and DIR that installation of energy improvement retrofits is not subject to Davis-Bacon requirements and state law prevailing wage requirements, your budget must provide for the payment of prevailing wages. If the Bidder's proposed program identifies construction work to be completed by contractors or subcontractors employing laborers and/or mechanics subject to Davis-Bacon Act or state law prevailing wage requirements, the budget for the proposed program must provide for the payment of prevailing wages to those laborers and mechanics. Please indicate whether the proposed budget includes prevailing wage.

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<sup>15</sup> <http://www.gpo.gov/davisbacon/allstates.html>.

## VI. ARRA SPECIFIC IMPORTANT INFORMATION, CONTINUED

If the Bidder's proposed program identifies construction work to be completed by contractors or subcontractors employing laborers and/or mechanics subject to Davis-Bacon Act or state law prevailing wage requirements, the agreement between the Energy Commission and the Bidder will include provisions for complying with the prevailing wage requirements, including provisions for the payment of prevailing wage, keeping payroll records, and complying with working hour requirements and apprenticeship obligations. ~~See the Special Condition (Attachment 9) regarding Prevailing Wage, and the accompanying forms (Attachment 8) for more information.~~

Attachment 8 provides helpful information on the Davis-Bacon Act and the type of program work which may not be subject to the payment of prevailing wage under federal law. Attachment 14 provides helpful information on the state law prevailing wage requirements.

## VII. Evaluation Process and Criteria

### ABOUT THIS SECTION

This section explains how the proposals will be evaluated. It describes the evaluation stages, preference points, and scoring of all proposals. A Bidder's proposal will be evaluated and scored based on its response to the information requested in this PON.

The entire evaluation process from receipt of proposals to the posting of the Notice of Proposed Award is confidential.

### PROPOSAL EVALUATION

To analyze all Proposals, the Energy Commission will organize an Evaluation Committee. The Evaluation Committee may consist of Energy Commission staff, staff of other agencies, private consultants or other designated representatives of the State to evaluate the proposals. Technical evaluators may be from academia, environmental organizations, industry, or government. The identity of the evaluators will be kept confidential during the selection process. The Energy Commission reserves the right to solicit technical input from other internal and external sources. This technical input will be utilized by the Evaluation Committee during the evaluation of the proposals. The Proposals will be analyzed in two stages:

#### Stage One: Fulfillment of PON Mandatory Format

After the period has closed for receipt of proposals, each proposal received prior to the time and date set for receipt of proposals is opened and examined to determine compliance with the PON format requirements and grounds for rejection. If a proposal is not rejected for reasons stated in Grounds for Rejection, it may still be rejected if it does not meet the proposal format requirements or minimum administrative requirements.

#### Stage Two: Technical Evaluation of Program Proposals

Proposals passing Stage One will be submitted to the Evaluation Committee for scoring based on the Evaluation Criteria in this Section.

A Bidder's Proposal will be screened and scored based on its response to the information requested in this solicitation. The Evaluation Committee, at its sole discretion, may interview a Bidder either by telephone or in person at the Energy Commission, and/or conduct a site visit at the Bidder's facilities for the purpose of clarification and verification of information provided in the Proposal. However, these interviews may not be used to change or add to the contents of the original Proposal.

Proposals that receive a score of zero (0) on any of the following evaluation criteria will be rejected ~~automatically receive a score of zero (0) for Stage Two:~~

- Eligible Improvements

## VII. Evaluation Process and Criteria, Continued

- Loading Order
- Home Energy Ratings, Energy Audits, and Building Commissioning

### Ranking and Awards

Rankings for this solicitation will be developed based on the Stage Two scores of all eligible Proposals. Similar rankings will be established for the two other concurrent SEP solicitations, one for the California Comprehensive Residential Building Retrofit Program and the other for the Municipal and Commercial Targeted Measure Retrofit Program.

The ARRA Policy Committee will determine how many proposals on each ranked list for each program area will be proposed for inclusion in the portfolio of programs that will be approved under these solicitations.

### Notice of Proposed Award

Subsequent to the Proposal evaluations, the Commission will post a “Notice of Proposed Awards” at the Commission’s headquarters in Sacramento, and on the Commission’s Web Site.

### Scoring Scale

The Evaluation Committee will give a score from zero (0) to ten (10) for each criterion described below. The point calculations reflect the averages of the combined scores of all Evaluation Committee members.

#### Point Scale

0 Points	<ul style="list-style-type: none"><li>• Is not in substantial accord with the PON requirements.</li><li>• Has a potential significant <u>negative</u> effect on the amount paid or net cost to the State or the quality or quantity of product and/or service.</li><li>• Provides an advantage to one competitor over the other competitors, for example, not paying minimum wages.</li></ul>
1-3 Points	<ul style="list-style-type: none"><li>• The proposal states a requirement, but offers no explanation of how or what will be accomplished.</li><li>• The response contains a technical deficiency which is an inaccurate statement or reference concerning the how, what, where, or when, which is part of an overall statement or description.</li></ul>
4-6 Points	<ul style="list-style-type: none"><li>• Satisfies the minimum requirements and describes generally how and/or what will be accomplished.</li></ul>
7-9 Points	<ul style="list-style-type: none"><li>• Satisfies the minimum requirements and specifically describes how and/or what will be accomplished in an <u>exemplary manner</u>, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).</li></ul>



## VII. Evaluation Process and Criteria, Continued

10 Points	<ul style="list-style-type: none"><li>Exceeds the minimum requirements and specifically describes how and/or what will be accomplished both quantitatively and qualitatively, using sample products and illustrative materials (i.e., diagrams, charts, graphs, etc.).</li></ul>
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***\* Proposals that receive a score of zero (0) points for any of the following criteria will be rejected: (1) Eligible Improvements, (2) Loading Order, and (3) Home Energy Ratings, Energy Audits, and Building Commissioning. See Section III (Program Proposal Requirements) for descriptions of these criteria.***

### EVALUATION CRITERIA

The following criteria will be used for evaluating Proposals in response to this solicitation. A minimum score of ~~280~~<sup>238</sup>, or 70%, is required to pass Stage Two. Details on Proposal requirements for each of these evaluation criteria are included in this PON:

## VII. Evaluation Process and Criteria, Continued

### EVALUATION CRITERIA WORKSHEET

References will be considered throughout evaluation process.

Weighting Factors and Criteria		Weight Factors	x	Points (1-10)	Weighted Score
<b>1</b>	<b><u>Program Design</u></b>				
a)	Financing Plan	1			
b)	Eligible Improvements	1			
c)	Loading Order	1			
d)	Home Energy Ratings, Energy Audits, and Building Commissioning	1			
e)	Property Qualifications	1			
f)	Legal Considerations	1			
g)	Sustainability	1			
h)	Regional Approach	1			
i)	Verification of Energy Savings	1			
j)	Participant Recruitment and Communication	1			
k)	Quality Assurance/Conformance with California Law	1			
l)	Team Organizational Structure	1			
<b>2</b>	<b>Workforce Development and Job Creation</b>	3			
<b>3</b>	<b>Energy, Peak Demand, and GHG Emissions Reductions</b>	3			
<b>4</b>	<b>Economically Disadvantaged Areas</b>	2			
<b>5</b>	<b>Time Criticality</b>	<del>3</del> <u>1</u>			
<b>6</b>	<b>Program Transparency and Reporting</b>	1			
<b>7</b>	<b>Program Team Qualifications and Experience</b>	2			
<b>8</b>	<b>Statement of Work</b>	4			
<b>Total Technical Score (70%)</b>					
<b>9</b>	<b>Cost Summary</b>	<u>Weight Factor</u>	<u>x</u>	<u>Max Points (1-10)</u>	<u>Weighted Score</u>
a)	Uses for Energy Commission Funds	1			
b)	Leveraged Funds/Resources	3			
c)	Program Cost Effectiveness	3			
d)	Program Budget	5			
<b>Total Maximum Cost Score (30%)</b>			<u>12</u>		<u>120</u>
<b>Total Maximum Score</b>			<u>40</u>		<u>400</u>
<b>Minimum Points</b>					<del>340</del> <u>280</u>
<b>Maximum Points</b>					<b>400</b>
<b>Total Points</b>					